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Transportation and Telecommunications Committee March 6, 2023
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GEIST: We're going to go ahead and get started, if you would take a seat, please. Good afternoon and welcome to the Transportation and Telecommunications Committee. My name is Suzanne Geist. I represent the 25th Legislative District in south Lincoln and southeast Lancaster County. I serve as the Chair of Transportation and Telecommunications. We will start off having members of the committee and committee staff do self-introductions, starting on my right with Senator Fredrickson.

FREDRICKSON: Good afternoon. My name is John Fredrickson. I represent District 20, which is in central west Omaha.

BOSTELMAN: Bruce Bostelman, District 23, Saunders, Butler, Colfax Counties.

GEIST: To my right is our committee counsel, Mike Hybl. And to my left, our committee clerk, Caroline Nebel. Also assisting on our committee are our pages, Delanie and Logan. Delaney is studying political science at UNL and Logan is studying international business at UNL. This afternoon, we will be hearing five bills and we'll be taking them up in the order listed outside the room. On the table near the entrance of the room, you will find the blue testifier sheets. If you are planning to testify today-- and could I see a show of hands of those who are planning to testify today? OK. Would you please fill out the blue sheet and hand it to the pages when you come up to speak? This will help us keep an accurate record of the hearing. If you do not wish to testify, but would like to record-- have a record of your presence at the hearing, please fill out the gold sheet on the table near the entrance. Also, I would note the Legislature's policy, that all letters for the record, must be received by the committee by noon the day prior to the hearing. Any handouts submitted by the testifiers will also be included as part of the record as exhibits. We would ask if you have any handouts, you please bring 10 copies and give them to the pages. If you need additional copies, the pages will be happy to provide them. Understand that senators may come and go during our hearing. This is common and it's required, as they may be presenting bills in other committees. Today, the testimony for each bill will begin with the introducer's opening. After the opening statement, we will hear from any supporters of the bill, then from those in opposition, followed by those speaking in a neutral capacity. The introducer of the bill will then be given the opportunity to make closing statements, if they so wish. We ask that you begin your testimony by giving us your first and last name and spelling it for the record. We will be using a three-minute light system today. When

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you begin your testimony, the light on the table will turn green. The yellow is your one-minute warning. When the red light comes on, we will ask that you wrap up your final thoughts. Understand there will be no demonstrations of opposition or support during the testimony allowed. I would also like to remind everyone, including senators, to please turn off your cell phones or put them on vibrate. And before we start the introduction, I will have the senators who just entered the room introduce themselves.

DeBOER: Hello, everyone. My name is Wendy DeBoer. I represent District 10 in northwest Omaha.

MOSER: Mike Moser, I represent District 22, it's Platte County and most of Stanton County.

GEIST: And with that, Senator Jacobson, you are welcome to open on LB31.

JACOBSON: Thank you. Chairperson Geist and members of the Transportation and Telecommunications Committee. As you know, my name is Senator Mike Jacobson, representing District 42, M-i-k-e J-a-c-o-b-s-o-n. I'm here to introduce LB31, a bill that is important to the thousands of railroad workers in my district and for the safety of all Nebraskans. LB31 provides that any train or light engine used in connection with the movement of freight must continue to be operated with a crew consisting of at least two individuals. Two-person crews are required today under collective-- under current collective bargaining agreements. This requirement has, has provided for the second crew member to immediately respond to any problems that may arise, including collisions, derailments and block crossings. The recent rash of trail [SIC] derailments highlighted the need for this bill. Eight other states currently require two-person crews and several other states are considering passing a two-person crew to enable safety. Nebraska needs to be number nine. Although the Federal Rail Administration, the FRA, is, is discussing steps to determine this requirement-- to retain this requirement at the federal level, they have not yet, they have not yet acted and they have been inconsistent in the past when it comes to maintaining rules. Meanwhile, train lengths have grown from one mile to over three and a half miles over the past few years. Single-employee operation is inherently unsafe and dangerous for both the public and employees. Engineers must stay in the cab under all circumstances and often must be there up to 12 hours, with no breaks and no cell phones, alone. These long haulers lead to increased stress levels and mental fatigue,

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which can result in less effective decision making in an emergency situation. Conductors are essential for safety. Here are several reasons why: conductors act as the first responder and leave the train to help those injured in an accident. I might add, in the Ohio, most recent-- one of the most recent, there had been another one here this last week. But a month ago, the conductor literally got off the train, had the manifest, shared the manifest to know what was in those cars with first responders and helped remove first responders. That immediate attention with that information is critically important. They also provide assistance and information when first responders arrive, help if the engineer had a health emergency such as a heart attack, cut crossings for emergency responders if they can't get to the other side for emergencies. They provide extra-- an extra set of eyes to note-- notice something on the track, a train realignment, or can detect something wrong before it leads to an accident. The conductor ensures all safety regulations are followed on board and maintained the train manifest to help first responders and know the cargo in each train car, in the event of a derailment. Decoupled car-- they can decouple cars, change train direction and they can also make repairs while the train is stopped. Conductors are a necessity for the safety, safe, efficient operation of the railroad, which demonstrates the necessity of LB31. I encourage you to advance this bill to General File and would take any questions.

GEIST: Thank you. Senator. Are there any questions on the committee? I do not see any. Are you planning to stay for closing?

JACOBSON: I will be back for close, but I have to go to Banking for another committee presentation.

GEIST: OK.

JACOBSON: And they'd like for me to be there for part of my committee hearing.

GEIST: OK.

JACOBSON: So I will return.

GEIST: Sounds good. We'll see you then.

JACOBSON: Thank you. I'll monitor what goes on. It could be a few minutes, looking at some of the testifiers here. Thank you.

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GEIST: Yes. OK. Thank you. Are there any proponents for LB31? Those in support of LB31. Good afternoon.

RICHARD SCHMELING: Good afternoon, Senator Geist and members of the committee. My name is Richard Schmeling. I live here in Lincoln. I do not work for--

GEIST: Would you spell your name for the record, please?

RICHARD SCHMELING: --S-c-h-m-e-l-i-n-g. I do not work for a railroad. I have never worked for a railroad. However, I feel that I have a great deal of knowledge about railroading. I have a bachelor's degree in history, minors in economics, political science from UNL. I have a law degree from the University of Nebraska. When I finished law school, I went into the Army. I was in the U.S. Army Transportation Corps. The Transportation Corps requires you to complete a basic officer's course. And we learned about all modes of transportation, including railroading. For about 12 years, I drove a crew van here in Lincoln hauling Burlington Northern Santa Fe railroad crews. I visited with the fellows that run the trains. I learned about railroading, things I didn't know. And I think I have a pretty good understanding of, of what goes on on the railroad. I will tell you that I feel that for the safety of all Nebraska residents, including me, it's very important to have two people on the train. Unfortunately, what we're seeing is we're seeing railroad management driven by Wall Street. All they're interested in is dividends and profits. If the railroads had their way, they would have nobody on those trains. We'd have had auto-- automated trains and I don't want to ever see that happen. Their, their stories that these gentlemen could tell you, where one member of the crew becomes incapacitated, the other one has to take over. If there's only one person on that train, then that train sits there. It blocks crossings, it fouls up rail and highway traffic, until they can get somebody else there. So I'm very much in favor of this bill. I hope this committee doesn't bottle up these railroad bills like you have in the past. Let's get it out on the floor and let's, let's have some full-blown debate on it, because these are important issues. I venture to say they're as important as some of the other issues that you're fighting here in the Legislature. Thank you for your attention.

GEIST: Thank you, sir. Are there any questions on the committee? I don't see any. Thank you for your testimony. Senator DeKay, would you like to introduce yourself?

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DeKAY: Yes, I would. Barry DeKay, representing District 40, those counties represented are Holt, Knox, Cedar, Antelope, northern part of Pierce and most of Dixon County. Thank you.

GEIST: Thank you. Proponent. Good afternoon.

CHRIS BRUNS: Good afternoon. I'm Lincoln County Commissioner Chris Bruns, C-h-r-i-s B-r-u-n-s. Madam Chair and other esteemed members of this committee, thank you so much for allowing me an opportunity to speak to you today, not only for myself, but on behalf of the entire Lincoln County Board of Commissioners in strong support of LB31. I am providing you, in addition to my verbal testimony today, copies of, of a formal resolution supporting this important public safety legislation that is important to, to all of my colleagues. And this resolution we actually passed this last week. Lincoln County has, arguably, more than any other county in the state, a strong heritage related to our country's railroads. Being home to the world's largest classification railyard, Bailey Yards, Lincoln County's appreciation for the Union Pacific and other railroads is equally as strong. We applaud the steps that the railroads have taken in advancing technology to compete in an ever competitive global economy and the large amounts of capital that they have spent furthering safety while doing so. That point being made, we also recognize that it is in the best interests of all Nebraskans to advance this important public safety bill, that maintains having two independently thinking human beings able to supersede technology and capable of deciphering everything that can transpire in the course of a route and quickly react to any potential emergency that may arise. Those two individuals must be physically on the train. Today, you will hear many examples of instances where two-person crews have been invaluable because of technology and safety standards failures. I won't get into those, as important as they are. You will also likely hear from some that this is a collective bargaining issue. With all due respect to those that may wage this argument, I and my colleagues strongly disagree. Employment, wages and benefits are collective bargaining issues. Public safety is not and should never be left to the hands of a private company between its corporate officers and that of its employees. No, the chief responsibility of public safety is that of government. It's one of our chief and most important responsibilities. And this bill falls within your purview to provide that public safety to Nebraska. I strongly encourage you to consider this thoughtful, well-written, very good bill, as it relates to the public safety of the railroaders that, that work throughout the state, the numerous communities that enjoy the strong infrastructure that the railroads

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provide and I humbly ask that you advance this to General File. Thank you. And with that, I'll entertain any questions that I may be able to answer, to the best of my ability.

GEIST: Thank you for your testimony. Are there any questions from the committee? I don't see any. Thank you.

CHRIS BRUNS: Thank you.

GEIST: Any other proponents?

PAT PFEIFER: I got nine copies. You're going to have to share one.

GEIST: She'll make another copy for you, so everyone will get one.

PAT PFEIFER: Well, you can have this one after I'm done. I'm not going to read this, but go ahead.

GEIST: Go ahead. Thank you.

PAT PFEIFER: My name's Pat Pfeifer, P-a-t P-f-e-i-f-e-r. I'm chairman of the Nebraska State Legislative Board-Brotherhood of Locomotive Engineers and Trainmen. I have been coming up here for over 20 years to try and get the most common sense bill passed out of this Legislature. Just get it advanced, with-- there is-- there's no cost associated with this that protects the lives of my brothers and sisters that run these trains and the lives of the people that we could affect. Technology does not replace a human being. They try. We see how technology works in East Palestine. We've seen how technology worked in Gothenburg, Nebraska, my hometown. Second train derailment within the same outpost in less than a year, 35 miles away from a class one inspection area. Because rules and regulations can be wiped away, we need laws. Part of that handout, we've just got a new rail safety improvement act. There's talking points on there. People are-- all the way across this country, a little scared. Rightfully pissed, because of all the derailments and the down-- this-- I can't say the word I want to, but the lack of service that's being provided. East Palestine, I can tell you, is a result of precision scale-- scheduled railroading. That's a model that every railroad has adopted. You do more with less, get rid of people. We've lost over 33 percent of the workforce all through this country, since PSR started coming out. Now we want to take the person off the train or allow them to take the train off? East Palestine, they didn't have, probably, car inspectors, they didn't have carmen, they didn't have mechanical people, they didn't have rail inspections, because we need to cut those workforce

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down. These railroads are profitable. I put the-- in your little handout, their last ten years of earnings. When one railroad can report \$1.4 billion of profit in a quarter, it sounds pretty good. You know what that means? That means every day they are making over \$16 million of profit. They can afford to keep people on a train. They could afford to provide decent service. This is the most common-- there's so many bills leaving this committee, right. I mean, not this committee, hitting the floor of the Legislature. [INAUDIBLE]. I guarantee you, I've been coming up here so long, I don't want to come up here again on this. And I will make you a promise. You advance this out of here, you probably won't see me.

GEIST: Thank you for your--

PAT PFEIFER: And the other thing I'll tell you-- I know, I got job insurance.

GEIST: --yeah.

PAT PFEIFER: I can go by a [INAUDIBLE] one, so.

GEIST: Excuse me?

PAT PFEIFER: Please. Can I say one more thing?

GEIST: No. I, I actually would like to enforce the light.

PAT PFEIFER: OK. Well, thank you for your time.

GEIST: If, if anyone has a question.

PAT PFEIFER: I'll certainly ask any-- answer any question.

GEIST: Yes. Senator Frederickson.

FREDRICKSON: Thank you, Chair Geist. Would you like to finish what you were just going to say?

PAT PFEIFER: Yeah. The only thing I would ask you, is each one of you, you were elected to represent the citizens in your district. Call 10 of them up. Ask them if they think it's a good idea to take a person off a train. Represent them, not the business plan of a railroad. Thank you. Anything else?

GEIST: Any other questions from the committee? I don't see any. Thank you for your testimony. Any other proponents? Good afternoon.

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JAMES TOOLE: Afternoon. My name is James Toole, T-o-o-l-e. I've been a conductor for four years. I was asked to come up here today to share an experience that I had. In mid-December last year, just before sunrise on an eastbound load of coal combo train, our leading locomotives had just passed through a small Nebraska town. And we were coming up to a nongraded private road crossing. About a quarter mile away, my engineer and I were looking and we could see two red dots in front of us. Realizing that it was a car and that it appeared to be on the tracks and not on the right of way, right of way next to us and we put the train into an emergency brake application. And I blew the horn, trying to get the driver's attention, because we could see the brake lights flashing, flashing on and he was in this vehicle. He suddenly got out of the vehicle and stood in between our locomotive, locomotive and his car and was waving his arms up and down, trying to get us to-- like he was trying to flag us down. At this point, I'm standing up because we could no longer see this individual. With me standing up, I could see the top of his head. Until the last minute before the-- our locomotive hit-- had hit his vehicle, I could see his head starting to move toward the right of way. When the train, when the train finally came to a stop my, my engineer was frozen and was not moving, with his hands still on the horn and his other hand over-- well, holding the air where he was still putting it in an emergency. I stood up, buzzed up the emergency channel to speak to the dispatcher to let him know what had happened and our current location. And then I informed her that I was going to get down and go check and see if I could find the driver, not knowing if we had hit him or if the car had hit him once it had spun off the tracks. As I got off and started walking back towards the location of the impact and the impact of the vehicle, I could see the driver walking away, headed west back towards town. I hollered at him to ask if he was OK and to let him know that we had emergency services coming and he started running away, heading further west. At this time, I called the dispatcher back up to let her know so they-- that she could inform the emergency services of the location of this individual and where he was going. And then I watched him cross through our train and get back on main track one and started walking west, further. I went and checked the vehicle, after I could no longer see this individual, to make sure there was no one else in there. This whole time my engineer is in the locomotive cab where he has to be. Not finding anybody else, I went back up to check on my engineer. He was extremely shaken and frozen. And I asked him how he was doing. He said, as long as you're here talking to me, I'm OK. I'm not replaying what just happened in my head. In 39 years, he'd never hit a vehicle.

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GEIST: I'll have you pause there and we'll see if anyone has any questions. Are there any questions from the committee?

JAMES TOOLE: Yes.

GEIST: Yes, Senator DeBoer.

DeBOER: Thank you, Senator Geist. How, how long in miles does it take to stop a train?

JAMES TOOLE: Well, a lot of that depends on how heavy the train is, the speed that the train is going. Fortunately, we are, we are-- already had what they call the dynamic braking going, because we were coming down a hill, so that was already helping slow us down. We were roughly going about 40 mile an hour when we came through this town. From where we hit the vehicle-- we dumped at like, a quarter mile away from where we hit the vehicle. And from where we hit the vehicle, we were four or three locomotives and about 20 cars past this vehicle where we, where we'd had the impact. So, so there's a lot of variables in it, weather conditions, speeds.

DeBOER: So you had to run back to see if there was anyone else in the car?

JAMES TOOLE: I, I walked back to try to find the, the, the driver of the vehicle, which I did find him walking away. And after trying to get him to stop and he continued to go-- like I said, I was, I was speaking to our dispatcher on the radio so she could inform the emergency services where he was. I went back and checked the vehicle to make sure there was no other passengers in that vehicle. Fortunately, there was not.

DeBOER: How long would you say you were out doing that inspection of the train?

JAMES TOOLE: I-- actually, I never inspected the train. I inspected--

DeBOER: Well, I mean--

JAMES TOOLE: --the vehicle and everything.

DeBOER: --yeah. Sorry.

JAMES TOOLE: Honestly, I kind of lost track of time, how quick it was. I can tell you that it took about an hour after I reported the, the

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incident before a representative from our railroad showed up. So for the-- for an hour, it was just me and the engineer.

DeBOER: When-- in that crossing where you were--

JAMES TOOLE: Um-hum.

DeBOER: --I assume that the road was perpendicular to the, to the train tracks, more or less.

JAMES TOOLE: Yeah. The road ran north and south. That road crossing was north and south. There was a highway right next to it that ran east and west, the same direction as our train. The individual-- well, I found out later on, was lost. He'd turned on a wrong road crossing. He turned back and he turned onto the rail tracks instead of going another 10 foot onto the highway. And his vehicle was actually facing east, the same direction that our train was traveling. So all we literally saw before that sun came up was two red dots.

DeBOER: Well, I'm very glad that it ended up the way it did for you. That sounds like that was a very scary thing. Is your engineer-- is-- was he OK afterwards? You said he was having trouble.

JAMES TOOLE: Yeah, we-- I spoke to him until they got there. In fact, him and I kept in contact for about the next couple of days and I was checking on him to make sure he was doing OK. He said he was very shaken up and he said he did not know what he would have done if I was not on that train to help him. And that's one of the main reasons why we need to keep our conductors on the trains. We're there for more than just fixing broken knuckles or checking hot wheels. We're there to take care of the unexpected. Immediate reaction. We are the first responders.

DeBOER: Thank you.

GEIST: Any other questions from the committee? I don't see any. Thank you for your testimony.

JAMES TOOLE: Thank you, ma'am.

GEIST: Good afternoon.

JEFF COOLEY: Good afternoon. I'm Jeff Cooley, J-e-f-f C-o-o-l-e-y. I am president of Local 200, but I am speaking on public safety today. So this is personal, things that happened in my time as conductor. As

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a conductor for 17 years, I've seen multiple reasons for a second-member locomotive for public safety concerns. I was a former member of Keystone-Lemoyne Fire Department, a former responder of Lake McConaughy water rescue and dive team. And several occurrences, our, our chief of our fire department had exercised the conductors to cut crossings. Along Lake McConaughy, we had a crossing that did not have an overpass. So for first responders, they used that conductor quite a bit before the overpass went in. We still have a problem at Paxton, Nebraska, where we've had several accidents out on the interstate where the chief, Kyle [PHONETIC], has had-- Paxton has been delayed at least 25-30 minutes getting to the accident because they're getting the crossing cut, to get from Paxton over to Interstate 80. But the most profound and alarming incident as a conductor was in the spring of 2015. Our coal train was heading westbound from North Platte to south Morrill, Nebraska. We'd just achieved a track speed of 50 mph, when I questioned an, an obstruction fouling main track number 2. My engineer, Ron Chitty [PHONETIC], he figured and guessed it was either a dead animal or it was something like a turkey or something sitting on the rail. I kept my eyes glued on the location for 5-10 seconds more and never took them off. Clearly, the hair had blown in the wind, which I immediately put the train in emergency and it was a little 4-year-old girl who was sitting on the rail, who was crying because her parents were arguing at their house. We called it emergency over the radio. I went, we blocked all traffic, all four mains. I ran to the girl and I took her to the sheriff. And from that point, the-- a special agent from the railroad came out, so I was released back to the train and we left that location. Two years later, they built protection along those rails-- fences. But many communities in this state cannot afford to be protecting their tracks from things that happen. That's why we have conductors. Most recently-- oh, I'm out.

GEIST: You are. I'm sorry.

JEFF COOLEY: All right.

GEIST: Are there any questions from the committee? Senator DeKay.

DeKAY: Thank you, Senator Geist. I have two quick questions and I'll ask the same questions to people on the other side of this issue. Number one, you're-- would, in your opinion, what's the pros of keeping it the way it is now? And the second question would be what's the cons, the-- how it will affect you going forward, too?

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JEFF COOLEY: Well, the pros are for public safety. And the most recent one I had was in this, this bad snowstorm in December. Our windshields were so iced up, snowed up, that my engineer could not see out of his windshield very well. We had a FedEx trailer full of big springs over the crossing, and we threw it into emergency because I saw him and he couldn't, because of all the snow that was pushed up over the crossing. And we stopped within eight and a half feet from plowing into that FedEx truck. So these are the pros. The cons are these-- this total destruction will continually happen with neighborhoods with only one person in the cab. Four eyes and two minds, they equate to a lot better decision-making than any one person can do. Everybody has a bad day. Everybody-- not everybody has the same eyesight. That, that incident I just told you about, PTC did not pick up that FedEx truck. Nothing did, besides the little piece of the windshield that I could see that he was up there, because it was a white hood in a snowstorm. So just by chance, the second set of eyes caught it. So any more questions?

DeKAY: Thank you.

GEIST: Are there any other questions on the committee? I don't see any. Thank you for your testimony.

JEFF COOLEY: Thank you, Chairman-- or Chairperson. Excuse me.

GEIST: That's all right. Senator Brandt, would you like to introduce yourself?

BRANDT: Senator Tom Brandt, District 32, Fillmore, Thayer, Jefferson, Saline and southwestern Lancaster Counties.

GEIST: Good afternoon.

ANDREW FOUST: Good afternoon, committee. My name's Andrew Foust, A-n-d-r-e-w F-o-u-s-t. Good afternoon, Chairman-- Chairperson Geist and members of the committee. I'm here to testify in support of Senator Jacobson's bill, LB31. Thank you for this opportunity. I am the Nebraska legislative director for SMART Transportation Division, SMART TD, as some of you have heard. We're a rail union that represents over 1,200 conductors and engineers across Nebraska. And I'm also a constituent of LD 25. I'd like to discuss a few railroad myths with you today. The first myth is concerning that Union Pacific's ground-based expediter. BNSF has had a form of this for years called the rapid responders. They're made up of qualified car,

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mechanical, department employees. And I'll let you ask a BNSF representative how rapid they really are. The second myth is that Amtrak runs one person already through this state. That is not true. There are a minimum of two people on Amtrak, the conductor and the engineer. The conductor is in the passenger cars, taking tickets, putting away bags and relaying signals to the engineer. The third myth is that this is a collective bargaining issue. In the past five years, BNSF and Union Pacific have served notice to cancel five collective-bargained agreements, one of which is BNSF's Safety Summit Agreement, which allows labor and the carrier to do audits on unsafe working conditions. The entire country knows how the last national agreement was handled. Earlier, we heard Mr. Cooley's testimony about how the train almost struck a child. Will the child's parents have a seat at the table when this is collectively bargained? Will your constituents have a seat at the table when this is collectively bargained? How do we collectively bargain safety? The fourth myth is PTC, positive train control. Required in 2000-- by the 2008 Rail Safety Improvement Act, to implement by railroads, will safely take the place of the conductor, but PTC has yet to be implemented on all rail lines in Nebraska. One of those lines is where the supposed ground-based expediter was filmed in west Morrill, Nebraska. On March 1, BNSF posted on their social media page that they supply multiple safety layers, including PTC, to keep their employees and the trains out of harm's way. PTC cannot recognize objects fouling the track, vehicles, people or animals. By having two sets of eyes in the cab and on-- in the train-- and, and it is a necessary safety layer that the railroads want to remove. I ask that the Senators on the Transportation Committee vote to support LB31. Thank you for your time and I'd be happy to answer any questions that you might have.

GEIST: Thank you for your testimony. Yes, Senator DeKay.

DeKAY: Thank you again. You mentioned earlier that on Amtrak, there's two people on Amtrak trains all the time?

ANDREW FOUST: Yes, that's true.

DeKAY: How many cars are involved in Amtrak trains?

ANDREW FOUST: I can't tell you for sure, but I, I know that there's six traveling on Amtrak 5 today.

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DeKAY: OK. And then like in-- on your cargo trains that go through the central part of the state, coal trains, grain trains, what's the average number of cars on a--

ANDREW FOUST: Well, with the Union Pacific releasing their quarterly report in 2022, their fourth quarter report, they average 9,100 feet. The derailment that just happened a week, week and a half ago was 300 cars, which was over 15,000 feet.

DeKAY: OK. Thank you.

GEIST: Are there any other questions on the committee? I don't see any. Thank you--

ANDREW FOUST: Thank you.

GEIST: --for your testimony. Proponent. Any other proponent? Good afternoon.

RANDY DOYLE: Good afternoon. My name is Randy Doyle, R-a-n-d-y D-o-y-l-e, and I'm here in strong support of the bill. I'm a 40-plus year retired conductor. I sympathize with the conductors that, that have spoken previously. Myself, I've been in 12 grade crossing accidents, some with serious injuries, some with deaths and some with no injuries at all. Each of those, I'm not going to bore you with all the details of each one of them. But in each one of those, a member of the crew had to go and assess the situation, contact emergency and responders, if necessary. There were-- the first crossing accident that I was in, there were five people on that train, which-- and the train was much shorter than what I see today, with more employees. That-- so the, the people that were involved in the accidents certainly got help much quicker. I think it's imperative that at least two people are on each train. I just, I just do not see a safe way to ensure the safety of, of the general public or the employees or the equipment. It's, it's multimillion dollar equipment out there and we're responsible. The conductors and the engineers are responsible for that, for that equipment, they're responsible for ensuring the safety of the public and they're responsible for ensuring the safety of anyone that gets in the way of that train. I'd be happy to answer any questions that anyone may have. I appreciate the questions. I, I know there will-- I think it's, it's good to get that discussion out. So, thank you for your time.

GEIST: Thank you. Senator DeBoer, did you have a question?

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DeBOER: Yes. So what does a conductor do? What are-- what is the job of a conductor? Can you tell me? You say you did it for 40 years, so I feel like you're pretty qualified to tell me what that is. What is it you do as a conductor? What's your job?

RANDY DOYLE: Yeah. Thank you. The-- in very basic terms, the conductor, according to the rules that we're tested on, is in charge of the train. So the conductor is in charge of-- and technology may have changed this. I've been retired for five years, so technology may have changed. But at, at the onset, the conductor is in charge, in charge of knowing when all the commodity-- commodities that they were carrying in each car, whether they were hazardous material or not. They were in charge of any billing. It was-- back in the day, it was all done by paper. So they were in charge of making sure that the, the paper was distributed and the billing was-- giving to the proper craft that would ensure that the payments were made. So if there were, if there were any mechanical issues that came up, if there were-- we were-- the conductors and the brakemen, at the time, were in charge of overseeing and looking behind them at each car on a curve track and sometimes on straight track, you would stick your head out to see if there was any smoke, fire or anything dragging, which you would immediately tell the engineer to stop the train. You would go back and inspect and, and do what, what was necessary, either cut the train apart and set the car out or, or take it to the next station where it would-- where it could be repaired.

DeBOER: What, what training do you have to have to be a conductor?

RANDY DOYLE: There-- at, at, at my time, there was a-- seven qualifying trips and, and then a short test. It's changed much now. There, there is an extensive training period. There is an extensive test. At the time when I started, like I said, there were five people on each train, so my training was kind of on-the-job training. I had, I had no experience. At least one other crew member had 10 years' experience. Two other crew members probably had 20-30 years' experience. So, so my, my training was kind of on the job. Now, you don't-- they don't have that luxury because there's only two people there, so there's an extensive training period. I believe it's six months.

DeBOER: Your absence as a conductor, if you are not on the-- if the conductor is not on the train, what duties will not get done? What are the duties that the conductor has that will be missing if we only have one person on the crew?

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RANDY DOYLE: That's a good question. That's a real good question. As far as the duties pertaining to the train itself or pertaining to the public or, or--

DeBOER: Safety-- whatever, whatever you can tell me. Safety, probably most important.

RANDY DOYLE: I would say that-- I have several friends and family members that still are employed on trains and run trains. That-- if, if there was just an engineer on that train, the, the thing that comes to my mind, if there, if there was any kind of a medical emergency for that person. There is no-- there's nobody there to, to assist. There's nobody there to stop that train. God forbid, if, if an engineer would have a heart attack, that train would continue. There, there is a, there is an alerter that goes off periodically, that, that someone has to touch, touch something to reset that alerter. But a lot could happen in between those intervals of time.

DeBOER: What is that, what is that interval, do you know?

RANDY DOYLE: I, I do not.

DeBOER: OK.

RANDY DOYLE: I do not. I was not an engineer and I can't remember if-- it may have changed since I, since I retired. So.

DeBOER: Thank you.

GEIST: Senator Moser.

MOSER: Well, I was going to ask a question, but then when you say were-- reminded me that you were a conductor rather than the, the engineer. I thought maybe you didn't know the answer to the question, but I'll ask anyway--

RANDY DOYLE: I'll try.

MOSER: --since I wasted all this time explaining why I'm asking the question. So you have a panic situation, where if you see something on the track, you flip the switch, the brakes lock up and you try to bring it as quickly to a halt as you can. Can-- if you miss whatever you're seeing as an obstacle, can you just go back to operation or do you have to stop and fill out a report and say why you went to a panic stop?

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RANDY DOYLE: I, I would, I would be guessing. I'm not absolutely sure. I, I believe that there is some kind of report that has to be filled out, but I'm not absolutely sure, sir.

MOSER: Can the, can the engineer run the train remotely? Can he get out and go look at something and then if he had to, you know, try to back the train up or something or, you know, in an emergency situation?

RANDY DOYLE: There, there I believe there are technology capabilities for an, for an employee to run that. I believe, under collective bargaining agreements right now, it would be a conductor who would have to run those controls. That's the way it was when I retired, on our railroad, anyway.

MOSER: When a train hits a car, wouldn't that notification of the 911 system be pretty automatic? I mean.

RANDY DOYLE: Not to my knowledge, no, sir.

MOSER: Who's-- the engineer, is he the one responsible for calling the emergency personnel?

RANDY DOYLE: Either the conductor or the engineer, whoever it would-- I-- it, it would depend. One of them would have to call, yes, would have to notify the dispatcher to contact the emergency people.

MOSER: Well, thank you. Don't be so [INAUDIBLE].

RANDY DOYLE: Could I, could I expand on-- onto your question about the engineer moving it from the ground?

MOSER: Sure.

RANDY DOYLE: Keep in mind that if, if, if there's a person that is back 20 to 50 to 100 cars, they're-- and they're going to move the train forward, there would be nobody on that engine to protect the public as that train's moving forward because they would be a mile or more possibly, away.

MOSER: I was just thinking, in my own inexperience, if there were only one person on the train and the engineer got out to see what the problem was. He comes out there and here, there was a vehicle that they hit and it's pinned up against a telephone pole or something. And if he wanted to, could he back the train up to give a little slack in

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the pressure against that vehicle, in case they're trying to get it away from a pole or, you know, in some emergency situation?

RANDY DOYLE: Under the rules that were in effect when I was, when I was still employed five years ago, that would have been-- there would have had to been someone protecting the movement on the other end of the train, whether it's forward or backward, whatever. There would have had to have been someone to protect that. And one person could not, could not do that safely.

MOSER: OK. Thank you.

RANDY DOYLE: Yes, sir.

GEIST: Senator Fredrickson.

FREDRICKSON: Thank you, Chair Geist. Thank you for being here and for offering your, your testimony and your expertise. One, one, one thing that you said that, that caught my ear was you mentioned when you were working or when you had started, there was a period where there were five people on the train.

RANDY DOYLE: Correct.

FREDRICKSON: Can you, can you educate me a bit on, sort of, how things have shifted between then and now? I imagine some of that might be technology related, but I'm also curious: have responsibilities shifted to the folks who are on the train. In other words, have there been an increase of responsibilities for the folks there. Can you maybe shed some light on that a bit?

RANDY DOYLE: Yes, absolutely. I'd be happy to. When there were five people on the train, there were-- there was an engineer, a fireman, which is basically an engineer trainee, and a brakeman that were on the locomotive. Then there was a caboose. And you may be young enough, you don't remember what a caboose looks like, but, but there was a caboose that had a conductor and a rear brakeman on it. And so those, those five people were responsible for everything from the end of the-- from each end of the train. And if there were any complications, any mechanical issues, any emergencies to the public, each person had a responsibility. As those, as those-- and I'll, I'll admit that technology has, has increased the effectiveness and the, the-- I would say the mechanical portion of the trains. The, the bearings on the wheels are, are much better. They last longer. You don't have the issues that we used to have. So, but as-- to answer your question, as

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the crew is reduced, certainly those responsibilities were given to the remaining crew members.

FREDRICKSON: Yes.

RANDY DOYLE: So, so, yeah. It was reduced from five to four to three to now, two.

FREDRICKSON: Yeah.

RANDY DOYLE: Each member of that crew has much more responsibility.

FREDRICKSON: Yeah. And I-- and, and the technology question has got me thinking, too, that, you know, the question kind of, I think that-- and this might be rhetorical, but it's almost, you know, what happens if and when the technology fails? And are there any-- I'm thinking what was Senator Moser, Moser was asking, in relation to if you, if you can almost remotely operate something, would that require good cell service. What happens if there's not good cell service? So I'm, so I'm kind of curious if you have any thoughts on--

RANDY DOYLE: You're probably a little above my my, my field of expertise as far as the, the technology goes. But yeah, certainly, I'm, I'm sure there is some kind of a, a signal that would have to be relayed back and forth.

FREDRICKSON: --sure. Sure.

RANDY DOYLE: And again, like you say, it's, it's mechanical and subject to failure. Yes.

FREDRICKSON: Thank you.

RANDY DOYLE: Thank you.

GEIST: Any other questions on the committee? Senator DeKay.

DeKAY: This is more of a curiosity question than anything. How Senator Moser and you alluded to, to, about the wheels and the safety and stuff. If you have a near miss accident and say, do the wheels like in a passenger vehicle, do they lock up if you have to administer emergency measures to stop a train? Do they completely lock up on the tracks or do they continue to roll over a slower rate of speed? I guess what I'm getting at, if they, if they lock up, what's the chances of the friction between the wheels and the track starting to

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flatten out that steel wheels where it's no longer completely rounded? And measures have to be taken with that to deal with that issue going forward, before the train moves after a near-- after an impact or a close call?

RANDY DOYLE: Yeah. Yeah. As you, as you said, it's steel on steel. The wheels are steel. The rail is steel. So, so certainly, if one of those-- if the wheel stops moving because of the brakes, then yes, it would not only put flat spots on that wheel, but it would also burn, possibly, the rail, which both would have to be inspected and either and-- did I answer your question, sir?

DeKAY: Yes.

RANDY DOYLE: OK.

DeKAY: Absolutely. Thank you.

GEIST: Yes, Senator Brandt.

BRANDT: Thank you, Chairwoman Geist. Thank you, Mr. Doyle, for your testimony today. Real quick. What are the top three things you would see as a conductor, the top three safety issues when you look back on that train?

RANDY DOYLE: When I look behind me, just to the trailing train?

BRANDT: Yeah. Typically, when something is going wrong, what are the top three things that usually go wrong?

RANDY DOYLE: Sure. Well, the, the-- probably the most dangerous one as far as mechanical goes, would be a hot bearing, which, which would eventually cause the wheel to come off and then you would have a derailment. There-- I would say the next thing would be dragging equipment. Maybe a, a large piece of equipment, a earthmover or something would be on a flat car, chained down. Sometimes those chains break, sometimes they come loose and they would be bouncing along on the side of the track. It could come in contact with another train opposing or, or a car at a crossing or any number of things. I can't come up with a third one right off the top of my head.

BRANDT: That's fine. I appreciate that. Thank you.

GEIST: Any other questions? Yes, Senator DeKay.

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DeKAY: Off of that just a little bit, so from the conductor to the engineer, do you have computer screens or whatever that you can look at, from your position, to see what might be causing the hazard to the train as it's, as it's moving or you feel there's something going wrong with the train going down the tracks?

RANDY DOYLE: Things may have changed, sir, but at the time that, that I was out there, the-- there was a, a screen in front of the conductor on some locomotives. Not all of them at the time were equipped with it. Some of the older locomotives, there was talk of retrofitting them to provide that screen, but I also know that there was some opposition to the cost of that. The engineer-- and so all the, all the information that was on the engineer's side of the cab was not always shared by a [INAUDIBLE] by a screen. It was shared verbally.

DeKAY: OK. Thank you.

RANDY DOYLE: Yes, sir.

GEIST: Any other questions on the committee? I don't see any. Thank you for your testimony.

RANDY DOYLE: Thank you for your time and thank you for your consideration.

GEIST: Good afternoon, Councilman.

JAMES MICHAEL BOWERS: Good after-- good afternoon. Chairwoman Geist and members of the Transportation and Telecommunications Committee. Thank you for your service and thank you for taking up these issues that impact Nebraskans, specifically in my city council district in northeast Lincoln. My name is James Michael Bowers. J-a-m-e-s M-i-c-h-a-e-l B-o-w-e-r-s. I'm a member of the Lincoln City Council representing District 1, which is generally, northeast Lincoln. I'm not representing the City Council, but I am representing my district, a district that has a proud history of supporting and working for railroads. I'm here to use my position to uplift my neighbors and family that have reached out to me over this issue. And I'm here to express my strong support for the bill that requires a train crew of at least two individuals for the movement of freight trains. The safety of workers and the general public is a top priority, priority for all policymakers. This morning, the Lincoln Journal Star posted some startling statistics. Nebraska has had the fifth most derailments in the country, with 42 derailments in Nebraska from January of 2022

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to November of last year. This bill takes a step towards ensuring that appropriate safety measures are in place to present-- prevent accidents and reduce the risk of injury or loss of life. This is an issue with the potential to impact northeast Lincolnites, between the trains that go through my district daily and the working people who have made their careers in the railroad industry. Some may argue that technology has advanced to the point where a single-person crew is sufficient and that mandating a two-person crew would increase the costs for railroad companies, but advancements in technology-- and while advances in technology have certainly improve the safety and efficiency of the railway system, there is no substitute for human intervention in ensuring that trains operate safely. A two-person crew provides an added layer of redundancy and backup to help prevent accidents and ensure a prompt response in the event of an emergency. It helps ensure that my constituents in northeast Lincoln who go to work can return home at the end of the day. The cost of a second crew member is negligible compared to the potential cost of an accident which can result in fatalities, injuries and property damage. I urge this committee to support this bill, as it is a necessary measure to ensure the safety of our railway workers and the public. Thank you for your time, attention, and as always, service to Nebraska.

GEIST: Thank you for your testimony. Are there any questions on the committee? I don't see any. Thank you for being here.

JAMES MICHAEL BOWERS: Thank you so much, Senator.

GEIST: Proponents. Good afternoon.

ADAM HAUSMAN: Good afternoon. Thank you. My name is Adam Housman, A-d-a-m H-a-u-s-m-a-n, and I am the second vice chairman of the Nebraska State Legislative Board. I'm also the legislative representative for my local union, the BLET 621 here in Lincoln. I'm, I'm here to support LB31. Unfortunately, the two-person crew bill is nothing new to this committee. I have stood here in prior years giving the same of the-- same repetitive testimony. In today's world, it is unfortunate that I have to stand before you and testify every year regarding safety with trains. But there is a law here in Nebraska, LB449, that prohibits scleral tattooing, which is the eyeball-- white part of your eye, that is deemed to be-- protect the public because it is deemed unsafe. What is going on? What is, what is it going to take to prove that two people are needed in the cab? Is it going to take a day like the one that happened in Ohio? As of now, we don't have all the details regarding that derailment. But the one thing that I can

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tell you for certain, is that the conductor was the first on scene and was able to get the hazardous material list to the firefighters and to the other first responders. Having that material-- hazardous material list is vital because not all fires can be put out with water, which could, potentially, make it worse. Technology is evolving but should never be relied upon to take the place of a human. Take, for instance, Tesla. More than 363,000 of their self-driving cars are being recalled, as of February 23 of this year, because the National Highway Traffic Safety Administration says that Tesla, Tesla software can increase crash risk and put drivers in danger. However, the railroad carriers want you to believe that their technology is foolproof. Clearly it is-- if you have watched any of the national news recently, it is not. Railroads have developed positive train control in recent years, with the idea that it could become the eyes and ears of the train and eventually replace the conductor. While PTC works great in theory, according to the railroad, it should never take the place of the human in each train. Last time we met, questions were asked about what would happen if the engineer had a medical emergency. The response from the carrier was that the alerter switch, which is on every train, alerts the engineer and the button is pushed every 30-45 seconds. The train would gradually slow down. But this is false. The-- if the engineer does not hit the alerter every one minute and 30 seconds going 45 miles an hour, it goes into penalty and that train would stop immediately. The location of the train could be between a cornfield on one side and a river on the other, which is-- may not be accessible by vehicle. What is important for you to know now, what makes the situation worse is that once the train is in emergency, that the dispatcher does not get notified that the train is in emergency, unless the conductor calls out emergency, emergency, emergency and gives the milepost location. While PTC comes with GPS, there is no notification that goes directly to the dispatcher to let them know the train is not moving. A train could be stopped for 5-10 minutes before a response comes on.

GEIST: Thank you. Thank you. Are there any questions from the committee? Thank you for providing your testimony. That does help.

ADAM HAUSMAN: Sorry, Senator.

GEIST: Yes.

DeBOER: Sorry.

GEIST: Senator DeBoer, go ahead.

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DeBOER: Thank you. You said that there's the alerter switch and it's every-- because I had asked a previous testifier, it's every 30-45 seconds, you have to--

ADAM HAUSMAN: No. That's what the carriers say. It's actually, you're going 45 miles an hour, it's every one minute and 30 seconds before it will put the train into emergency.

DeBOER: Can you see what's in front of you for one minute and 30 seconds?

ADAM HAUSMAN: Like, you mean like at a crossing?

DeBOER: I'm saying if the little girl is sitting on the tracks, can you see her one minute and 30 seconds before you get to her?

ADAM HAUSMAN: Yeah.

DeBOER: You can see her one minute and 30 seconds? I mean, how long does it take to, to stop a train from going 40 miles an hour?

ADAM HAUSMAN: At least a half mile, if not longer.

DeBOER: How long, how long is that in time?

ADAM HAUSMAN: In time? I, I don't know the answer to that, but I could sure get it to you, try to.

DeBOER: Is it like, less than a minute, do you think?

ADAM HAUSMAN: It probably takes longer than a minute, a little longer than a minute, I would say.

DeBOER: So are you a conductor?

ADAM HAUSMAN: I'm an engineer.

DeBOER: You're an engineer.

ADAM HAUSMAN: Yep.

DeBOER: What does the conductor do on your train?

ADAM HAUSMAN: He makes sure that we have all the cars in the proper orders, as far as hazmat and make sure there, there-- because we have rules about they have to be in the proper position. He goes-- we all

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go with that, with the hazardous material list and makes sure everything is correct. And, and if, you know, there's a derailment or whatever, you can get that material list to the first responders. Firefighters.

DeBOER: What, what does he do-- I mean, he or she, what does the conductor do that-- when you're traveling or when you're moving?

ADAM HAUSMAN: Well, when we're moving, we're always communicating like where we're at. You know, if the situation changes, you know, if it starts raining or snowing, you know, your job safety brief. We're always having constant communication back and forth about what we're doing.

DeBOER: Are you in the same area of the train or does the conductor stay towards the back of the train or the middle of the train or range?

ADAM HAUSMAN: The engineer is on the right-hand side and the conductor's on the left-hand side.

DeBOER: In the front of the train?

ADAM HAUSMAN: In the front locomotive, yep.

DeBOER: And yeah. Thank you.

GEIST: Yes, Senator DeKay.

DeKAY: Thank you. Real quick. Is, is-- are the trains located according to the cargo they're hired-- carrying? Like hazardous materials in one section of the train, grain and whatever, vehicles or whatever in another section of the train or how's that all work?

ADAM HAUSMAN: [INAUDIBLE].

DeKAY: What's that?

ADAM HAUSMAN: I'm not getting your question. What was your question?

DeKAY: Well, if you have like 100 cars on the train.

ADAM HAUSMAN: Um-hum.

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DeKAY: And you had 25 cars that are going to be carrying ethanol or something like that, are they-- those 25 cars hooked together either front, middle or back of the train and.

ADAM HAUSMAN: They could be scattered all over the--

DeKAY: They could--

ADAM HAUSMAN: --all over the train, They're not necessarily in blocks.

DeKAY: OK.

ADAM HAUSMAN: So they cannot-- most of the hazardous materials cannot be in the near 6th car. But then after that, then it could just be spor--sporadic

DeKAY: OK.

ADAM HAUSMAN: You know, when it derails, you don't know-- if the conductor has to look back there and verify the cars that's

DeKAY: I knew the conductor could verify what's, what's in each car and where it's at. I just didn't know if they were allowed to--

ADAM HAUSMAN: Yeah. Nope. [INAUDIBLE] it's sporadic.

DeKAY: OK. Thank you.

GEIST: Thank you. Yes, Senator Bostelman.

BOSTELMAN: Thank you, Chairwoman Geist. James Michael Bowers testified that Nebraska's had the fifth most derailments in the country, with 42 derailments in Nebraska, from January 2022 to November, first 11 months of last year. Could you speak-- do you know what? Can you categorize those 42? Are those line derailments, are those yard derailments, are they--

ADAM HAUSMAN: I, I don't know the, the answer to that question, but I, I can do the research and quick, get that information together.

BOSTELMAN: Thank you.

GEIST: Senator Moser, did you have a question?

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MOSER: Yes. Thank you. So can the conductor be in one of the extra engines? Do you have multiple engines spaced along the train, or does he have to be in--

ADAM HAUSMAN: Multiple engines on the [INAUDIBLE]. But no, it's required that they're on the head engine.

MOSER: So he'd have to be in the same engine you're in?

ADAM HAUSMAN: Yeah.

MOSER: Up at the front--

ADAM HAUSMAN: Yep.

MOSER: --in the direction you're going.

ADAM HAUSMAN: Yes, that's correct.

MOSER: OK. Thank you.

GEIST: Any other questions from the committee? I don't see any. Thank you for your testimony. Any other proponents? Good afternoon.

JOHN FOOTE: My name is John Foote, F-o-o-t-e, retired conductor seven years now after, I call it, a survivorship of 39.5-year career. I've been involved in derailments, varied collisions and a car hitting a pickup that decided to [INAUDIBLE] motor vehicle van. The guy decided to run a red light and we were going 50 miles an hour. We hit him. I was out for a year and a half recovering. But anyway, I'm here to discuss public safety and the requirements for a two-man crew. I'm also proud to be here because I'm the son of the first woman elected in the Unicameral, Kathleen Foote, born in 1955. I had a-- lived at a farm. Grew up and saw the trains go by. I wanted to be an engineer, but I became a conductor. Anyway. The reason for a two-man crew, having the guy being able to get off the train and go do whatever it takes to, to cut a crossing-- get people across their crossing. You get tied up, the dispatcher might make a automatic by-the-seat-of-the-pants call to stop. Then you got to go back. If you can't go forward, you have to cut a crossing and if you got a major highway crossing, you got to back and cut it. The engineer's not going to be able to do that, run back there, tie the breaks down at the rear part of the train, cut the head crossing, then tie it back in a timely manner and get moving for the traffic. One time, we were stopped at Firth, Nebraska. We pulled up the elevator. We're stopped waiting for

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east-- eastbound trains. We were a westbound train. I noticed the elevator is on fire. I said crap. We got to get the hell out of here. We asked permission from the dispatcher to cut off our engines because we couldn't move the train to get our engine away from there. And I went back, tied the train down and pulled our engines away from them. We didn't know whether that damn thing was gonna blow up or what. So there's just-- there's tons of instances where conductors are helpful in timely, efficient, cutting the crossings, going back, responding, having a list of the manifest of the hazardous materials, hand-- ready to hand to first responders to know exactly [INAUDIBLE]. And like I say, a lot of things have changed in the seven years I've been gone. But there's a definite need to have a two-man crew-- conductor and engineer. Thank you.

GEIST: Thank you. Thank you for your testimony. Could I have you repeat one more time the relationship to the first woman legislator?

JOHN FOOTE: She was the first woman elected to the Unicameral. There have been other women serve because their husbands died or the Governor appointed him. And there'd been women elected to the Bicameral before then, but she was the first woman elected.

GEIST: And her relationship to you was?

JOHN FOOTE: My mother.

GEIST: Your mother. OK.

JOHN FOOTE: And yeah. It was a--

GEIST: Thank you. Are there any other questions on the committee? Thank you for your testimony. Any other proponents? Good afternoon.

AMANDA SNIDE: Good afternoon. My name is Amanda Snide, S-n-i-d-e. I'm a conductor for Union Pacific Railroad. I also happen to be the assistant state director for the Nebraska State Legislative Board. I'm also a member of the Nebraska State Volunteer Firefighters Association. In April of 2022, acting FRA Administrator Amit Bose stated that these longer trains, in my mind, require a level of crew size that's proportional to the length of the train. Bose says these issues happen on those trains, emergency situations and having more than one person or having humans associated with those trains is to the benefit of the community if safety issues arise. During a recent proposed rule change to regulate two people on locomotive cabs, the FRA received over 13,000 comments in support of two-person crew from

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across the nation. Keep in mind, this is all before the incident that happened in Ohio. Nebraska has the chance to change things. You have the chance to change things. You guys have the chance to help make Nebraska safe for not only us, the locomotive engineers that ride in the trains with us, the towns that we travel through. I also am grateful for the Nebraska State Fire Chiefs, Nebraska State Firefighters Association for helping support LB31. I'd like to tell you the story of a conductor I'm fortunate enough to represent in western Nebraska. We were traveling down the train tracks and we were getting ready to change tracks. So I had to change-- I had to write down the time. It was 17:21. The engineer and I noticed two vehicles sitting next to the right of way, next to the crossing. Because of the curvature in the track, we could not tell if the pickup was located on our track or next to it. We noticed two men waving us down, pointing towards the truck. Positive train control, the technology that the railroads will tell you is going to replace the conductor, did not know that this truck was there. There was no hash box. There was no shunted rail. There was no circuit, circuit occupancy shown. Knowing we were 21,000 tons, I initiated emergency brake application, at 38 miles an hour, to try and get a hold of the train or to get it stopped before impact. We stopped nine feet short of impact, at 17:23. We had no idea if anyone was in the truck or if anyone was hurt, but because we had more eyes out the window, we were able to get the train stopped in time. Everyone was OK that day as the car was empty, but you will not find a railroad report of this incident as there was no contact made. Therefore, the railroad does not report this near-miss incident to the FRA. The conductor is not just a passenger on the trains. They provide essential work in yards, failure en route issues, where wayside detectors indicate issues that need fixed immediately. In the case of Ohio, if the first two detectors would have told that crew that something was wrong, they would have got that car set out before that catastrophic derailment. The conductor is the person that can fix these issues before catastrophe happens. I ask you to please keep the conductor in the cab of locomotives. I thank you for your time.

GEIST: Thank you for your testimony. Yes, Senator DeBoer.

DeBOER: Sounds like you might be able to answer some of my questions, too. So you are currently a conductor?

AMANDA SNIDE: I am.

DeBOER: What does a conductor do during the movement of the train time?

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AMANDA SNIDE: As stated before, the conductor is responsible for the cars. The engineers are responsible for the locomotives. So any failure en route-- the news has talked a lot lately about wayside detectors. These wayside detectors can tell us if the wheels are hot, which could mean a journalist going bad or the brakes are sticking. There could be dragging equipment, as the tracks bounce and things can fall off. So any failure in or out of that train, the conductor's job is to go back and repair whatever the issue is.

DeBOER: How does the conductor repair it?

AMANDA SNIDE: Depends on the day. I'm sure some of these guys can tell you, bail and twine, cutting fence wires, duct tape, whatever it takes to get that train moving.

DeBOER: OK. So you're responsible for-- I hadn't heard this before. The locomotives, I assume, is the-- what I would call the engines.

AMANDA SNIDE: Correct.

DeBOER: And then the cars are everything but what I would call the engines.

AMANDA SNIDE: Correct.

DeBOER: OK. And so you are responsible for the cars. Do you move about during transit or do you stay in the engine?

AMANDA SNIDE: Stay in the engine while you're moving down the rail.

DeBOER: While you're moving. What is the training that's currently required to be a conductor?

AMANDA SNIDE: For my railroad, I work for Union Pacific. Our new hires start in a three-week classroom session. They then go to two weeks of on-the-ground training, where they ride as the third person in the locomotive. They return to a class for three weeks to learn how to run remote control locomotives. And then they hit the yard. I work in Bailey Yard. It's the largest classification yard in the world. So we give them five weeks to learn how to run remote control locomotives within the yard.

DeBOER: So that's three weeks, two weeks, three weeks, five weeks.

AMANDA SNIDE: That's correct.

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DeBOER: And then I could go be a conductor on a train.

AMANDA SNIDE: That's correct.

DeBOER: What is-- to get involved in the program, do I have to have a high school, college, any kind of degree at all?

AMANDA SNIDE: No.

DeBOER: OK. So, what doesn't get done-- give me two or three examples of something that-- we don't pass this bill. Suddenly there's just one person on there. There's just the engineer. What are two or three things that aren't going to happen on a train when you're not there?

AMANDA SNIDE: Mr. Toole spoke of his experience where he had an actual collision. He was able to get down and look for the people, make sure they were OK. The conductor's the person that can render aid in an accident situation. The conductor actually is the first responder, as other people have spoken. We have our train lists and we can tell which cars contain what and in which order. There's a lot of talk about hazmat cars lately. As we build the trains, I believe it was Senator DeKay, asked if they're built in a certain way. As long as there's a hazmat car, it cannot ride next to certain other cars. It only needs one car in between something else to make sure that that train is safe and it has a buffer. The conductor's responsibility is to make sure that those buffers or that those cars are in place, at least one car apart.

DeBOER: OK. Thank you.

AMANDA SNIDE: Thank you.

GEIST: Yes. Senator Brandt.

BRANDT: Thank you, Chairwoman Geist. Thank you for your testimony today. You referenced Ohio. You talked about East Palestine.

AMANDA SNIDE: Yes, sir.

BRANDT: Weren't there three crew members on that train?

AMANDA SNIDE: There were. There was a train conductor, a training conductor, as well.

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BRANDT: So, I mean, would it have made any difference in that situation, in fairness to everybody, whether there was one, two or three people on that train?

AMANDA SNIDE: With that train, if the detectors would have told the crew that there was an issue between the first and second detectors, when the temperature of that wheel raised 63 degrees, which it should've flagged that that wheel bearing was getting hot. If that detector would have notified them, they would have had ample time to set that car up before that accident happened.

BRANDT: But they would have had ample time, whether there were two people or three people on the train. Would that be a correct statement?

AMANDA SNIDE: Correct.

BRANDT: All right. Thank you.

AMANDA SNIDE: Thank you.

GEIST: Any other questions from the committee?

DeBOER: Sorry.

GEIST: Yes, Senator DeBoer.

DeBOER: Sorry. One more.

GEIST: Go ahead.

DeBOER: So I ask this of one of your colleagues, how far ahead of you can you see on the train? Sometimes it will go curved. You know, so what's-- I mean, sometimes it would be less, sometimes would be more, but what's the approximate distance ahead of you you can probably see when you're drive-- when you're going down-- can you see something, see it, say, hmm, this looks bad, stop and, and get it stopped, get the train stopped in time. I mean, you said you, you did in this case, where you were nine feet from hitting it so you can, with the naked eye, see something and stop the train in time. Is that true?

AMANDA SNIDE: In some cases, yes. In some cases, the curvature or the elevation changes and you cannot see things that far ahead of time.

DeBOER: OK. Thank you.

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GEIST: Any other questions? I don't see any. Thank you for your testimony.

JERRY STILMOCK: Madame Chair, members of the committee, my name is Jerry, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of my clients, the Nebraska State Volunteer Firefighters Association and the Nebraska Fire Chiefs Association in support of LB31. Thank you for Senator Jacobson introducing the measure. We've long supported this concept of two, two-person crew. And when I had hair and I was younger and I could run quicker, I was on the railroad. I worked and there's only one way I know how to cut a train. If the train-- and is, is across a crossing and first responders need to get across that crossing, you need two people to cut the train. I don't know where those two people are come-- going to come from, if it's only a one-person crew. I have to go back to where I want to cut the train. I'm behind the crossing, if you will. I've got to turn, turn off the air and I got to pull the pin to decouple the cars. And then I can gesture or radio, I guess, now, because like radio, for the engineer to move the locomotive. I got to have two people. So I don't know where those two people come. If it's a ten-minute delay at the crossing, let's say those first responders-- which has happened. I wish I could give you anecdotal. Cass County was big. Cass County had one. It was lake property. It-- it's been several years ago. But there are incidents throughout this state, where crossings are covered and we, we need that two-person crew in order to make the cut happen. In, in the event it's, it's not a derailment, it's just the, the, the train is crossing-- the crossing that needs access by the first responders. Members of the committee, we've always supported this. We support it again this year and we ask you to advance the, the bill to General File. Thank you.

GEIST: Thank you for your testimony.

JERRY STILMOCK: Yes, ma'am.

GEIST: Are there any questions? I don't see any.

JERRY STILMOCK: Very well. Thank you.

GEIST: Thank you. Good afternoon.

SONNY FANKHAUSER: My name is Sonny Fankhauser, S-o-n-n-y, last name Fankhauser. F-a-n-k-h-a-u-s-e-r. Good afternoon, Chairperson Geist and members of the Transportation Committee. Public safety is the utmost

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importance when thinking about why you should pass LB31. As a railroader with 12 years of experience, 10 as a locomotive engineer, I've experiences-- have personal experience as to why a two-person crew is absolutely vital to maintaining the public safety. As you already heard, our job is very dynamic nature and requires both conductor and engineer to be able to perform at a high level of safety. To try and put it in perspective, the knowledge required to even move a train, it takes over eight months of on-the-job training and coursework to become certified as both conductor and engineer. Rule books total over 1,000 pages. Territory specific pages total over 1,000 pages. And the rule books and territory books are living, meaning you have over 2,000 pages that can get amended on the daily and for good reason. There is a saying in our industry that rules are written in blood. And according to the National Safety Council, in 2021, there were 893 railroad responsible deaths, a 20 percent increase from 2020 and the highest since 2007. Eleven fellow brothers and sisters were deceased and the remaining 882 were being general public. Nonfatal injuries totaled 5,781. Having a two-person crew to be able to consume, comprehend and discuss the ever-changing knowledge required to even move the train is vital to the safe operation of the crew and the general public's safety. If you allow the carrier to move on a single-person operation, how many of the 5,781 non-fatal injuries will turn into fatal ones? If-- in the past, we have heard this committee take the stance and the carriers argue that railroad safety is done through a collective bargaining process. I can't imagine this committee will let the carriers or the unions bargain on its behalf for their constituents' safety, as neither are their duly elected representatives. This Transportation Committee has the opportunity to be leaders in safety by requiring a train crew of at least two individuals as prescribed, joining eight other states to pass similar bills. Waiting for the federal government to play politics with Nebraskans' safety is not what I believe the constituents of this state want nor deserve. Passage of this bill will send a message to all Nebraskans that this committee will not take a neutral stance on public safety. Thank you for your time. I'll take any questions.

GEIST: Thank you. Yes. Senator DeKay.

DeKAY: Real quick, is there sensors on every wheel to gauge the temperature?

SONNY FANKHAUSER: Not on the, on the train itself. No. The detectors are way-- they call them waysides, so they're on the side of the track. So we go by and they're located, I believe, in the Rail Safety

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Act of 2023 that's being proposed, they're proposing every, like, ten miles. Currently, they-- there is no regulation as far as I know, of how far they're spaced.

DeKAY: What's the range of temperature that those--

SONNY FANKHAUSER: That's set by-- currently, it's set by the carriers individually. And as you're seeing, there's reports coming out that they may have raised their thresholds, their warning thresholds, in East Palestine.

DeKAY: Now do those, you know, according to the length of the trip of the train, does, does the temperature raise the, the farther you get down the tracks with it?

SONNY FANKHAUSER: Well, I'm not a mechanical guy, but my understanding is the bearings wear out. You get more friction, so that can create the higher temperatures, heat outside-- they have a threshold above ambient, is the way we look at them. We have markers that we can use to detect how hot that bearing is or the wheel is. So-- but it's above-- the threshold's above ambient temperature, whether it's below freezing or--

DeKAY: So if they get to a certain threshold, threshold during the trip, those cars are going to be pulled at some point in an inspection done on them or how often?

SONNY FANKHAUSER: The way it's supposed to work is we'd be notified, we'd go back, inspect it. Depending on where it fell on that threshold, we could inspect it, say, hey, it's fine. They could give us authority to take it to the next station or sighting. If it's really bad, we may have to move it at a certain speed, say under five miles an hour, while somebody is walking along it to make sure if it comes off the rail, you don't create a more catastrophic event. There's bridges involved. I mean, we've got bridges that go over rivers, so depending on the scenario, where it's at, location, it all changes.

DeKAY: All right. Thank you.

SONNY FANKHAUSER: Um-hum.

GEIST: Could I ask you a question real quick about what you just said? Who did you say regulates the sensor and the heat? Did you say that?

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SONNY FANKHAUSER: The thresholds?

GEIST: Um-hum.

SONNY FANKHAUSER: I think-- I believe they are set by the carriers.

GEIST: OK. Is that state by state or just-- is it--

SONNY FANKHAUSER: I think carrier by carrier.

GEIST: OK.

SONNY FANKHAUSER: The signalman would be the one that set them, but who sets that threshold would be-- yeah it'd be set by the carrier.

GEIST: OK. Thank you.

SONNY FANKHAUSER: From my understanding.

GEIST: Senator Moser.

MOSER: So did you watch any of the videos on the Internet of that East Palestine?

SONNY FANKHAUSER: Yeah. They're hard to avoid.

MOSER: And didn't it show sparks flying for some distance?

SONNY FANKHAUSER: Yes. Yeah, there's several people's cameras in their houses had caught. Had on fire for several miles, yes. And it had hit-- from me-- I mean, there's only been preliminary reports on it, but two previous detectors had set a warning and it had gone above a threshold. Well, the carriers had changed that threshold so nobody had contacted the crew to say, hey, you got some early warnings. Maybe-- after that first one, if there is an elevated temperature, they could have been notified and said, hey, you need to inspect this car. Would have stopped the train, conductor would have gone out, looked at the car and did a temperature reading on it or did a crayon marker on it and, and made a, you know, made a determination from there.

MOSER: Well, then you can have a hot bearing and not really have any real evidence of it. Right?

SONNY FANKHAUSER: You could. But in this case, from the preliminary reports, they had two early warnings and a third one is what notified them. From what I read in the FRA's report, was that the train was

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already in dynamic braking, prepared to stop. They were approaching another train so they were slowing down. And as soon as the hot bearing, the third detector went off, the only one they're notified of, they put the train into braking and as soon after breaking, that train went into emergency.

MOSER: In order to shoot sparks that far, it had to have been up in the hundreds of degrees, 700-800 degrees.

SONNY FANKHAUSER: They get-- yeah. They'll get-- I think that temperature was only over a couple hundred degrees, yeah, when they start shooting sparks. I mean, you lock a wheel up, that friction will immediately start throwing sparks. The tonnage of trains that we're talking about. I mean, you, you start thinking about 300-car trains. I mean, you're, you're over 40,000 tons easily. So you're talking about over 800 million pounds. I mean, the tonnage of these trains when they get this long is--

MOSER: If the bearing fails catastrophically, can the wheel fall off?

SONNY FANKHAUSER: Absolutely.

MOSER: I've never seen that, but I'm just curious.

SONNY FANKHAUSER: Yeah, I think there's a, I think there's a-- what was there, 1,700-- 1,700 derailments last year in the U.S. So I mean, you're talking about four and a half, five a day. It's.

MOSER: So if you have a real serious bearing failure, you lock up the train and then you have to come out and can you change that wheel right on the train?

SONNY FANKHAUSER: Depending on location. They do have wheel trucks now that--

MOSER: Try and jack it up.

SONNY FANKHAUSER: --they jack it up and it can, you know, pull the old wheel out. As long as it doesn't-- the issue is when it derails and then causes other cars to derail. It depends on what the material is. I mean, you can end up with anhydrous ammonia or you can end up with some two-by-fours laying everywhere. It just kind of depends on what you're hauling.

MOSER: Thank you.

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GEIST: Any other questions? Thank you for your testimony.

SONNY FANKHAUSER: Thank you for your time.

GEIST: Before the next person comes up, I'll let Senator introduce herself.

M. CAVANAUGH: Senator Machaela Cavanaugh, District 6, west central Omaha, Douglas County.

GEIST: Good afternoon.

JOE SWANSON: Good afternoon, Senator. My name is Joe Swanson, J-o-e S-w-a-n-s-o-n. This is my 63rd year as a continuous union member, so you'll find my testimony in the interests of my brothers and sisters of the unions. And I certainly don't think that they're naive. We know the railroad employers and their stockholders will do whatever is in their best interests, meaning profit, which is not enough as they show daily, with their unsafe transportation policies, practices, intimidating, speed up, harassment and elimination of thousands of workers that build, inspect, maintain and operate the trains and the trackage. For your constituents' interests, you need to take a principle pronouncement on-- in this legislative session. As you make your decision, you need to think about the people of East Palestine, Ohio. Norfolk Southern and the federal government agency are regarding the people there like the miners used caged canaries in the coal mines tunnels, testing for carbon, carbon monoxide. The first responders after the derailment and fire were-- weren't issued hazmat suits or respirators to protect themselves from the toxic chemicals burning or being released into the air and into the soil. The long-term effects on humans since the Ohio derailment has still-- of the air, water and soil is still to be seen. But the caged canaries and the tens of thousands of [INAUDIBLE] fish and animals that were killed in a matter of minutes and hours following the derailment gives you some idea of the fear of people of, of East Palestine and the, and the rural area. Thousands of derailments take place yearly. I want to point out, because of my long history of being active in the union, of a set-- of an accident that took place right here in Nebraska, in Crete, Nebraska, February 18, 1969, when a Burlington freight train derailed and hit in three anhydrous tank cars on the siding. Three migratory workers were killed. They were riding in the boxcar. Six citizens of, of Crete died almost instantly. Fifty-six others were injured from the fumes. This is a personal issue for me because my fellow union brothers, members of my union, Local 0305 at the time, a conductor and

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a brakeman walking up from the rear of the train were overcome from the fumes, which led to their early deaths some years later, long before reaching their retirement age. And we-- and don't forget Lac-Megantic, Quebec. Forty-seven people, young people, mostly young people, were in a social club when an oil train got away. And by the way, that was an engineer-only train. So these are the kind of conditions that you're making a decision on through these bills and I hope you support them. And, and finally, a word of notification. I'm an old school union man, so this is my individual outlook. I'm sure you know the power that rail unions have when they organize and use that power. Support the crew consciousness bill and force the rail employers to run shorter trains so crossings are not blocked and you will give your-- my union sisters and brothers and, and your constituents a matter-- a much better chance of being out of harm's way.

GEIST: Thank you for your testimony. Are there any questions from the committee? I don't see any. Thank you. Good afternoon.

A. J. McAFEE: Good afternoon. Good afternoon, Chairman Geist and members of the Transportation Committee. Several of my fellow coworkers back here have already testified.

GEIST: Would you give us your name and spell it, please?

A. J. McAFEE: Yeah. My name's A.J. McAfee, last name's M-c-A-f-e-e. As I was saying that a lot of my fellow coworkers have already testified. I was going to fold this up and put it in my pocket, but I think it's important for you guys to hear this again. So first off, I want to take the time to thank you all for allowing my fellow colleagues and myself to be present in front of you to explain many reasons why this bill is very important to me, my family, my coworkers, the public and everyone else in this great state of Nebraska. My name is A.J. McAfee and I have been a railroader for 12 years and a locomotive engineer for 10. I'm here to express my concern and thought of being alone in the cab of a locomotive located in a remote location if I were to experience a medical emergency. Locomotives are equipped with a device called an order. In the majority of locomotives, this device would be acknowledged every minute. If this safety device is not reset, it will begin a countdown in conjunction with audible tones. At the end of the countdown, if no actions are taken, the locomotive will be-- will apply the train brakes and the penalty application. If an emergency situation arises where a one-man crew is not responsive, the safety device's grade will bring the train to a stop. The issue lies within

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the-- where the place the locomotive stops. It very well could be a place where it's not accessible by vehicle. Having two people on a train will allow the other individual the opportunity to operate this-- to operate the train and stop the train at a crossing or somewhere, where that it's accessible by paramedics in the case of emergency. Another important aspect of having two people in a crew on a train with regards to an emergency, to one of the crew members, is that the other crew member can immediately begin administering, administering first aid and life-saving processes. There have been several instances in Nebraska where prompt actions by other crew members have saved my coworkers' lives. Had those individuals been during-- been alone during these emergencies, they may, may not have been alive today. The Transportation Committee has the ability now to make sure railroaders, myself, as well as everyone else involved, are protected. Thank you very much for the time you allowed me to express my concern and explain why passing LB31 is very important to the state of Nebraska.

GEIST: Thank you for your testimony, Senator DeBoer.

DeBOER: Thank you, Senator Geist. Thank you for your testimony. You did a good job.

A. J. McAFEE: Thank you. I'm nervous.

DeBOER: I couldn't tell. How long-- if you, if you didn't have a conductor in the train with you, what's a period of time that you would go without seeing another human being? Half an hour? Five hours?

A. J. McAFEE: That's a very--

DeBOER: Twenty minutes?

A. J. McAFEE: --that's a very good question. And I've thought about this a lot in this bill's been produced or introduced and stuff and the talk of going down to one-man crews and stuff like that, it, it varies. There's a lot of times like, where we'll stop on the rail and the dispatcher will be-- it will take them several minutes before they contact us to ask us why we're not moving or things like that. Can, can you repeat your question one more time? I'm sorry.

DeBOER: Just how long, how long would you go without seeing a person, if you were the only person in the, the crew?

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A. J. McAFEE: And, and all that depends on where you're at. If, if you were the only person on the train, you stopped. There, there's a lot of area that we traverse that have no, like, road access to it. So they'd either have to walk in, come by, you know, high rail. I can't give you a number on that, but it could be up to hours before someone (a) realizes that person is no longer moving and (b) before emergency personnel get to that person.

DeBOER: And so, if things don't go badly and you're just sort of operating your train, how long can you and the conductor be without having a stop or seeing someone? What's the, sort of, timeline that you-- do you see someone every 15 minutes on the side of the train, outside of the train, or is it more like you can go an hour or two and not see anyone?

A. J. McAFEE: Again, that's territory specific. I mean, if, obviously, if we're starting in west Lincoln going through Lincoln, we're going to see several people on the side of the road. However, we're operating over in Iowa. Iowa has a lot of areas where there's no crossings for 10 or 15 miles. So that stretch of track, I mean, we could go, you know, 30-45 minutes without seeing a crossing or car, you know, anything besides a deer.

DeBOER: Thank you.

GEIST: Yes. Senator DeKay.

DeKAY: Thank you, Senator Geist. You said the engineer has to hit a button every how many seconds or else--

A. J. McAFEE: It depends on how fast you're going. I believe, as somebody testified, I think at 45 miles an hour, I think it's an hour and ten minute-- or a minute and 10 seconds that you have to hit or depress that button. Otherwise, like you said, it will, it will start a countdown and it will start playing an audible tone for, I believe, it's 20 seconds. And then after that, it will apply the train brakes and the penalty application.

DeKAY: That probably answers my next question. So if you miss hitting it in that minute and 10 seconds, you-- do you have a low variance of time where you can hit it without it automatically shutting [INAUDIBLE]?

A. J. McAFEE: Yeah. You're exactly right. And there's several times where the responsibilities of an engineer and a conductor, you know,

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we're, we're constantly going through our timetables, seeing our speed. We're, we're tasked with so many different things now. We have, we have a DP screen, we have PTC. So PTC might be giving us alerts and stuff like that. We're messing with that. And, you know, a minute goes by and that-- it will start having that audible tone. You have to press the button then. But yeah, there's-- I would say almost every trip that we have, that tone goes off to alert us to you know, have to reset the--

DeKAY: OK. Thank you.

GEIST: Any other questions from the committee? I don't see any. Thank you for your testimony.

A. J. McAFEE: Thank you.

GEIST: Any other proponents? Good afternoon.

JAKOB FORSGREN: Good afternoon. My name is Jacob Forsgren, spelled J-a-k-o-b F-o-r-s-g-r-e-n, 11-year employee of BNSF Railway, working in the maintenance away department, maintaining and fixing train tracks. I'm also a legislative representative for the Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters. My job is to maintain the track and right of way to ensure safe movement of trains. I speak to you today in support of LB31, requiring two-person crews. Every day I work around moving trains, sometimes working as close as ten feet away from trains traveling upwards of 79 miles an hour on adjacent tracks. When the margin of error is that slim, there needs to be several layers of safety to ensure safe operation. Removing a person from the cab only makes this operation less safe. My life depends on those in the cab being alert and attentive to any situation that comes up. The lives of the public at large are also at greater risk with removing a person from the cab. When an emergency arises, it takes more than one person to direct brake a train to clear a crossing. There are a series of articles written recently in the Kansas City Star, detailing the problems that emergency responders have had with blocked crossings. And this will only exacerbate this issue. There used to be up to five crew members on each train that ran and in the interest of profits, we've dwindled that number to two, with the desire to move it to a single person. Issues such as stuck, stuck brakes, hot bearings or steel banding holding loads might come loose-- and it happens quite often. It is the conductor that walks the train to see it-- the issue can be remedied to continue safe movement. When there is only a single

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person in that cab, who will be the one to ensure that that train can continue to operate safely? The implementation of PSR has been a disaster for the rail industry in the literal sense, as can be seen in Ohio. The reduction of crews that may have seen or smelled that glowing overheating bearing prior to the derailment cannot be allowed to continue. The business practice erodes the layers of safety that exist to prevent this type of accident. Imagine, if you will, a derailment of a similar nature occurring on the tracks that run adjacent to the Haymarket during a Saturday in the fall, with 200,000 people within a 10-block radius. Are we willing to allow the railroads to experiment with whether or not it would still be safe with one person in the cab with that on the line? We cannot continue-- we cannot allow the railroads to prioritize profits over the safety of the public or my brothers and sisters by removing yet another layer of safety. This is why I, again, support LB31. And I thank you for your time.

GEIST: Thank you for your testimony. Are there any questions from the committee? I don't see any. Thank you so much.

JAKOB FORSGREN: Thank you, Senator.

GEIST: Any other proponents?

PATRICK KENNY: Good afternoon.

GEIST: Good afternoon.

PATRICK KENNY: My name's Patrick Kenny, K-e-n-n-y. I'm a 19-year conductor, one of the Class 1 railroads and a 12-year local chairman for SMART Transportation Division. I have a statement here from one of my coworkers and friends I would like to read. My name is Nick Brown, a conductor of 18 years with the Union Pacific Railroad. On the night of March 6, 2022, I experienced a tragic situation which would have been far worse had there only been one person on the train. While working as a conductor on the eastbound train-- coal train, the engineer I was working with, Mr. Keith Clark, experienced a heart attack. I immediately stopped the train and pulled him from his seat to begin CPR. I then called the yard master for an ambulance. When the train stopped, our head end was not in a place where an ambulance could get to us. I spoke with the yard master and local management about a location to get the engineer off and meet the ambulance. In between ad-- administering chest compressions. I kicked the brakes off the train and started at A head, while giving continuous CPR. When we

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were in a location where the ambulance could get to us, I got up from administering CPR to put the train in emergency. The manager on duty came out to the train with a defibrillator and began the process of administering, administering the defib. After administering a shock, I continued CPR for 45 minutes until the ambulance showed up. Keith still had a pulse and was transported to Jennie Edmondson. He ended up passing away at the hospital, but at least he had a chance at the hospital. I'm a three-time combat vet with extensive EMT training. There are many conductors with the same training. Had Keith been alone on the train that night, he would have died before anyone ever found him. The train would have stopped in a location where emergency crews wouldn't have been able to help and the ambulance would have been unnecessary. Instead, a coroner would have been called upon. I would not want to work in a place where I know I am completely alone if anything happens to me, I would not want any family or friends working in a place where they are completely isolated in an emergency situation. Truck drivers have been compared to us. However, they are allowed to use Bluetooth cell phones while driving and can call for help, as well as pull over and alert other drivers around them that they need the help. I hope that the representatives here today can make the best choice for the community and the well-being of the workers involved. I hope they make sure that none of us die in a way that could have been prevented if we simply weren't alone. The risk isn't worth the ultimate price. Thank you for listening.

GEIST: Thank you for your testimony. Senator DeBoer.

DeBOER: Thank you for the work that you did there or--

PATRICK KENNY: That was--

DeBOER: Can conductors drive the trains then, in emergency?

PATRICK KENNY: We can, we can put the brakes on or remove the brakes and move the train to a safe location.

DeBOER: OK. Thank you.

GEIST: Any other questions? I don't see any. Thank you for your testimony.

PATRICK KENNY: Thank you.

GEIST: Any other proponents? Good afternoon. You can fill that out when you're done.

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CARSON CLAYTON: Yeah. Perfect. Good afternoon, Chairman Geist and members of the Transportation and Telecommunications Committee. My name is Carson Clayton, C-r-a-- C-a-r-s-o-n C-l-a-y-t-o-n. I just want to clarify, I'm not here on behalf of my employer. I'm here on my own merit. So this is new to me. I watch it all the time, but bear with me. So I'm just here in support of Senator Jacobson's LB31. I was moved to testify as a son of a railroad engineer for nearly 20 years. My dad, as many others in this room, lived by their phones and have worked to the bone. They get called at any time, whether it could be sitting at their kids' ballgame and bet at 2 a.m. on Christmas morning or they're just getting work done at their house and drained of all their energy. Right. They get called. And then, they're expected to drive on that train. There's only one person in charge of this 2-3 mile train. And an emergency takes place-- you've heard many testifiers here today, just heart-wrenching stories. The, the engineer can't leave the engine room. These men and women are put through the wringer in-- day in and day out. What LB31 does-- and it provides a necessary safety precaution for those conductors and engineers, but most importantly, for the families and communities of Nebraska. We seem to be hearing more and more about these trail [SIC] derailments, derailments, but we're not asking to-- and what LB31 is doing-- and we're not asking to put a limit on mom and pop shops. What we're instead asking, is that these multibillion dollar corporations keep two position opens that are necessary for safety for all Nebraskans. I just urge you, Senator Fredrickson, Senator DeBoer, Senator Moser, Senator Geist, Senator Brandt, Senator Bostelman, Senator Machaela Cavanaugh and Senator DeKay, vote this through the committee. Let your colleagues debate this. I urge you, as a son of a railroad engineer, just let it go through committee and let it be debated. Thank you.

GEIST: Thank you for your testimony. Senator DeKay.

DeKAY: Thank you. Did I hear you right? If engineers on-- in a cab or in the engine, he cannot disembark that?

CARSON CLAYTON: From what I know, they can't leave the engine room. The conductor is the only one that can do that.

DeKAY: So they would happen to come in contact with a vehicle and that vehicle's starting to smolder, start on fire. If they're on there by themselves, they cannot disembark that train to help the--

CARSON CLAYTON: Yeah. They can't leave.

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DeKAY: --occupants of that vehicle?

CARSON CLAYTON: They can't leave. They, they just have to watch. How hard would that be for you just to stand there and do nothing?

DeKAY: Thank you.

CARSON CLAYTON: And Senator DeBoer, I have an answer for your question on just [INAUDIBLE], if I could answer that.

GEIST: Go ahead.

CARSON CLAYTON: So the average freight train is about 1-1.5 miles in length, 90-120 rail cars. When it's moving at 55 miles an hour, it takes a, a mile or more to stop a-- the locomotive fully, as it applies their emergency brake. And then, with the average car weighing at a gross weight of 286,000 pounds, you can just imagine. If there's nobody there, one person, barreling through your small town at night and it derails, just like in East Palestine, what are you going to do? Thank you again for your time.

GEIST: Thank you. I don't see any other questions. Thank you for your testimony. Any other proponents? Good afternoon.

BRYAN COLE: Good afternoon. Bryan Cole, B-r-y-a-n C-o-l-e, been a switchman on a railroad for 17 years, switchman/conductor. Thought I'd come up because I heard a few questions not being answered the way I would hope they would be. A common one has been what does a conductor actually do? Communication. That's probably the biggest thing in the cap. One-on-one communication with the engineer. You're there not only to keep that engineer alert, keep the train running in its proper manner, you will communicate with the dispatcher, who communicates with the public in the event of an actual emergency. The conductor is typically the one relaying the information to the dispatcher saying, hey, this is going on. We need first responders, we need help. We need them there. We need, we need them here, this spot. That's the conductor's communication. Observation. There are still windows in the locomotives and we still do look out them once in a while. Outside those windows, you can see the wheels on fire on some trains. Now, the trains that are three-miles long, you're not going to be able to see those wheels back there. But there are some areas where you're going to be able to see a hot bearing, which has been [INAUDIBLE]. You'll know to stop the train. You'll know to go back there, you'll know to inspect. One thing that hasn't really been mentioned too much, is the,

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the conductor is the one that actually does the inspection, right there, on that wheel. They make the determination, Do we set this car out? Do we stop? Do we move it? Can we keep going? That's what the conductor is there to determine. Response. Talked about that a little bit, but responders to the public, as well as to the engineer in the cab. You have to be somebody who is able to communicate. You have to be alive to do so. We've heard the horror stories of the engineers that succumb to natural causes and now who's up there talking to anybody? We don't have anyone relaying the information to the dispatcher. We don't have anyone saying, this is where we are, this is what we need. And then, of course, awareness of where each car in the train is and where that car is, in relation to the rest of the community that you're traveling through. If you're three miles into Crete, Nebraska, you could be on one end and then, on the other end, as well. Do we know that the hazmat is in the middle of town? Do we know that it's on the outside of town? Do we know where it's at if we have an instance? Questions have been asked, how long does it take to stop a train? It was answered pretty well a minute ago, but the longer the trains get, the longer it takes to stop them. We're making them longer and longer and longer every day, right now. So the farther they go, the bigger the emergency is. The follow-up to that is then what? You've had a problem. You've had an instance. You need to stop the train. You've stopped the train. Now, who goes back and finds out what's going on? Well, that's the conductor's job right now. The conductor is the one that will walk back, figure out what we need and ascertain the next course of action. Take the conductor off, we don't have that. Our conductor training on the railroad I work on is 15 weeks of initial training. We also, though, which has not been mentioned, have annual certifications. We're tested annually to determine whether or not we are compliant with federal regulations and our railroads own safety rules. We also have triennial hazmat exams to make sure we are aware of what to do in the instance of a hazardous, hazardous material response.

GEIST: Thank you. Are there any, any questions? Yes. Senator DeBoer.

DeBOER: Thank you. So the conductor is the one that if you get one of these, you've got a hot bearing, kind of, signals. They'll go and inspect it physically to determine whether or not--

BRYAN COLE: Correct.

DeBOER: --it was a false alarm, it was--

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BRYAN COLE: Assuming that--

DeBOER: --not a false alarm.

BRYAN COLE: --assuming the detector is working as expected, it will relay a message that you have a hot bearing. The conductor's job is to then make sure the train is stopped, walk back and figure out whether or not that train can continue to move with that hot bearing.

DeBOER: So they are the one that received the messages about--

BRYAN COLE: The full crew--

DeBOER: --are there are other problems besides hot bearings?

BRYAN COLE: --oh, yeah, absolutely. Dragging, detection-- as was mentioned earlier, dragging equipment is a very common problem, as well. Things fall off these train cars when they're going through the crossings, over rough track. You may be dragging equipment and don't know it until you hit a detector. The detector will warn you, hey, you have some dragging equipment. Train crew stops the train. The conductor walks back and finds out what's dragging. This can be commodities that you're hauling. It can also be a vehicle that ran into you. This is common at crossings. A vehicle will run into the train. The train will drag the vehicle for a certain amount of time, without realizing that it's happened. The conductor will walk back and find out what's back there.

DeBOER: How long, how long do you generally go without stopping, on a train? So you're going forward. You're just going. Is it you drive for 10 hours? You drive for 20 minutes? How long do you normally go without stopping?

BRYAN COLE: It can be as long as a couple of hours--

DeBOER: OK.

BRYAN COLE: --in some instances, but the majority of the time it is an hour--

DeBOER: You stop every hour?

BRYAN COLE: --I, I would say, on an average. Yeah.

DeBOER: OK.

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BRYAN COLE: It can be much longer. It can be-- depends on where you're at. You know, this is Nebraska territory.

DeBOER: So if something needs to be fixed, you get an alarm that something needs to be fixed. Could a conductor-- sorry-- could an engineer be trained to do the fixing?

BRYAN COLE: Absolutely. They could be trained to--

DeBOER: Sure.

BRYAN COLE: -- but they can't leave the cab.

DeBOER: They can't leave the cab.

BRYAN COLE: So the fix isn't going to happen until somebody else shows up to do it. Right now, the conductor walks back, ascertains the problem. The way a one-man crew operation would operate was they'd have to call somebody from somewhere else to drive to that space.

DeBOER: Got it.

BRYAN COLE: Many of you probably haven't seen the locations of tracks, but they can be in between things that you can't drive on.

DeBOER: That--

BRYAN COLE: They're going to be-- a river on this side and a big old bluff on this side.

DeBOER: --that doesn't seem very efficient.

BRYAN COLE: To drive to it?

DeBOER: To not have someone that can just-- is on the train and can go do it. How often do you have one of those warning signals come up? Is this a once a week kind of thing or is it once a year kind of thing?

BRYAN COLE: The Nebraska territory, I would say you're probably seeing it at least a couple of times a week.

DeBOER: A couple of times a week. It does seem very inefficient then, to say, I'm going to stop the train and just have my guy sit there with the train. And then wait for somebody to get to it. It might be easy to get to, it might not be. Then they ascertain it and then I can go? Is that the--

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BRYAN COLE: Agreed. I, I think that is very inefficient.

DeBOER: --OK. Thank you.

GEIST: Any other questions? I don't see any. Thank you for your testimony. And the other proponents. Good afternoon.

LANCE FLOHR: Good afternoon. Thank you. My name is Lance Flohr, L-a-n-c-e F-l-o-h-r. I am a locomotive engineer. I am the person sitting at those controls in that cab. I do not need any more responsibility dumped upon myself in the operation of the train. The conductor will coordinate with the dispatcher. Railroad operations are very fluid. Rail brakes, the breeze and the thaw that's going on right now, soft spots happen in the, in the track, in or out. We need to be notified of that. When I'm operating the train, probably 50 percent of the time, I'm in an area where I'm operating two sets of brakes, a horn, a bell and a throttle. I do not, I do not-- I've got a lot going on. I've got three computer screens that I have to look at and monitor a myriad of data that's on there at the same time. I, I don't need any other distractions. I'm, I'm really afraid that if you let the railroads come through with this one-man crew operation, you're going to have distracted engineers out here. And we all know distracted drivers are a problem and we don't, we don't need that. More catastrophic things can happen with the train and can, can happen with the car. Thank you.

GEIST: Thank you for your testimony. Are there any questions from the committee? I don't see any. Thank you very much.

LANCE FLOHR: Thank you.

GEIST: Any other proponents? OK. Are you a proponent?

JASON MEYERS: Yes.

GEIST: OK. Are there any others who are going to testify in the agree position? OK. Thank you.

JASON MEYERS: Good afternoon.

GEIST: Good afternoon.

JASON MEYERS: My name is Jason Meyers, J-a-s-o-n M-e-y-e-r-s. I started my railroad career, in 2006, as a conductor. In 2012, I took the promotion to locomotive engineer and I've worked in both crafts

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off and on, to the current date. I'm also a local chairman for our local union out of McCook, Local SMART TD 0626. I just got off for a little perspective and maybe try to clarify and answer some questions that were asked earlier. I think the biggest thing we need to clarify here is we're not asking for you to change anything. Just maintain the status quo. Right now, today, on all the Class 1 railroads, there's two people in the cab of the locomotive, operating the train across the state. We just want to keep that. We just want to maintain that safety standard we set. The safety-- we don't want to scare anybody with the commodities that we haul, but if you knew everything that these railroads were transporting, you'd be scared to death. There's dangerous commodities out there, but the safety and the, and the efficiency that happens is because of the dedication, the professionalism of the employees that are working these jobs day to day. We are like, the boots on the ground, the hands in the field and the eyes on the rat-- on the rails. It, it, it happens because of us. Just maintain the status quo and keep the two people we have out there now. There was questions asked about traveling across, how long you may be without human contact, how may--, how long you may operate the train. We don't know that. That's not in our control, from the time we take our call. Out of McCook where we work, we get a two-hour call. You're called at X time, you're expected to report for duty at-- 2 hours later. That could be at 2 a.m. That could be at 10 a.m. That could be at 3 p.m. You don't know. It's very unpredictable. You're expected to get your rest and be prepared to go. If you have two people there, even if one guy gets caught short, you've got a second person for alertness, awareness, safety. Imagine driving across the state of Nebraska in your car just by yourself. No radio, no cell phone, you don't get to decide where you stop to use the restroom, where you get to stop to eat, where you get to stop to take a break, take a stop to nap. That's not under your control. That's somebody from the outside world coming through on the radio. Talking about the locomotive engineer leaving the cab. There was an incident several years ago where a conductor was injured, fell off a bridge. In that instance, the locomotive engineer left the train, did go back to render aid and was threatened discipline by the railroad for leaving his train to take care of his brother. Detectors. Sometimes we get notified, sometimes we don't on dangerous situations, defects in our equipment. A lot of information gets relayed through a dispatch center that's hundreds of miles away and our only contact is through them, with the radio. We don't call 911 in the event of an emergency. We don't have our cell phones. They can't be on. They've got to be off. We don't have access to 911. We report to somebody, who reports to

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somebody, who reports to somebody and it trickles down. Safety is very, very important to all of us. It's-- we go home safe because we make that effort. We choose to do so. It's facilitated through the railroads, but that's on us.

GEIST: Thank you. Thank you for your testimony. Are there any questions? Senator Brandt.

BRANDT: Thank you, Chairwoman Geist. Thank you, Mr. Meyers, for your testimony. Do you have-- do you detect more or less hot bearings today because of the detectors?

JASON MEYERS: I, I am no expert by any means. I am not an old head. I've been around here since 2006, which is not a long career.

BRANDT: Did you have detectors in 2006?

JASON MEYERS: Yep, I don't think there's any more of them than there were when I started, to be honest with you.

BRANDT: So you're pulling 110-unit grain train and the detector says the wheels on the last car have a hot bearing. Does that conductor-- do you stop the train and he physically walks back over a mile along a rocky roadbed?

JASON MEYERS: You never know where you're going to walk. You never know where you're going to get stopped. It depends on where the detector is at, where you get hit. You may be able to walk over and walk down a gravel road, you may have to walk through a riverbed. You don't know. But yeah, the detector-- and I'm not an expert. I'm not going to pretend to be. But my understanding is the detectors detect, detect temperature differential from side to side and also the number in front of and behind it. We're kind of getting off the point of two people. But yeah, when you're notified there's a defect, the conductor's job, his responsibility, is to go back and physically inspect that, that location and proximity ahead of and behind it to make sure that we've narrowed it down, determined the severity of it and determined the disposition on what we do with that particular defect, if there is one.

BRANDT: All right. Thank you.

GEIST: Any other questions from the committee? Senator Moser.

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MOSER: So when you communicate with the company as you're working, do you use like, business band radio, kind of communication?

JASON MEYERS: There's a radio installed in the cab of each locomotive. Most of them are pretty functional. Some of them don't work as good as others. The conductor also has a handheld portable radio.

MOSER: Got a microphone on his collar.

JASON MEYERS: Yeah, got a microphone on his shoulder, a corded microphone or you have just-- holding the radio. The-- in the not so recent past-- I can't give you a date-- they changed over to a narrow band transmitting system. I'm not a radio expert. I know the range of these radios is much poorer than it was when I first started. The radios are smaller, the antennas are smaller, the range is shorter. The longer the trains get, the harder it is to communicate between the locomotive engineer on the head end of the operating locomotive and somebody on the ground 50, 100, 200 cars back.

MOSER: Do you ever call in and not get a response?

JASON MEYERS: Yes. There's not a lot of traffic on the tracks we operate. I work out of McCook. Our, our traffic goes from McCook to Denver and McCook to Lincoln, where we go both directions, 250 miles approximately, each way. Not a lot of traffic out there. A single track, two or three trains a day. Between the dispatcher-- I don't know what happens in the dispatch office, but I know when you need to talk to the dispatcher, something changes, you need to notify him about something, you need to ask him about something. You're meeting somebody you want to hold back and stay off the crossing until that other train is there to meet them. We'll tone up the dispatcher. I mean, you physically push buttons on the radio and it rings through and you wait. They might answer immediately and it might take him 20 minutes. They might never answer.

MOSER: When you say single track, there's one track each way or one track and you got to take turns?

JASON MEYERS: One, one track-- one main track from Lincoln clear to Denver and there's sidings in each town, where you can meet.

MOSER: So you can pass trains.

JASON MEYERS: Correct.

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MOSER: So you might work a five-hour shift to-- how long does it take to get to Denver? Five, five hours?

JASON MEYERS: It all, it all depends on what train you're on, how fast you can go, how much power you're allowed to use. The railroad dictates how much-- how many locomotives you can have operational, how much physical power you can use, how fast you can go, how heavy you are, if the terminal you're going to wants the train. The FRA says we can be on a train for a maximum of 12 hours. From starting your shift to the end of your shift, you're supposed to be relieved within 12 hours. It doesn't happen all the time.

MOSER: Do you get--

JASON MEYERS: There are crews that have 14, 15, 16 hours on duty.

MOSER: Do you get a break to eat or go to the bathroom or you--

JASON MEYERS: No. You eat while you're on the move. If you need to-- the railroad's going to tell you that you're not-- they, they-- they're not going to say, we don't let you stop and use the bathroom. There's, there's cameras inside the cabs of these locomotives now. They've come out within the last four or five years. They were proposed to be a safety appliance. All they've been used for is discipline, since they were installed. I hadn't heard of one instance of a safety application for these cameras. They're watching. They're waiting for an opportunity for somebody to fail. But if a locomotive engineer leaves the control stand while that train is moving to use the bathroom or to get something out of his lunch box and something happens, I-- you can only guess how it's going to go.

MOSER: Thank you.

GEIST: Any other questions? I don't see any. Thank you--

JASON MEYERS: Thank you.

GEIST: --for your testimony. Any other proponents? OK. We're going to switch to the opponents. Are there any opponents for LB31? Good afternoon.

ROD DOERR: Good afternoon. Thank you, Chairperson Geist and committee members. Good afternoon. My name is Rod, R-o-d, Doerr, D-o-e-r-r. I'm vice president of Crew Management and Interline Operations for Union Pacific Railroad. Prior to this position, I was vice president in

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labor relations, with responsibility to negotiate with our 14 unions. Prior to that, I was the vice president of safety for the company and the chief safety officer for the corporation. In the rail industry, crew size has largely been addressed pursuant to the requirements of the Railway Labor Act that outlines the collective bargaining process in the rail industry. Safety and technology advances have been the primary catalyst for these negotiations. Said simply, as technology has evolved, negotiations have occurred. State legislation that attempts to alter the terms of these collective bargaining agreements threatens the integrity of labor agreements and compromises future cooperation and negotiations. After all, who knows railroad issues facing the industry better than the very people that work for and manage these operations? For decades, railroads and their labor partners have negotiated and maintained collective bargaining agreements regarding the appropriate and safe crew size. The very well publicized safety advances throughout history of this industry all stem from successful resolution of issues through the collective bargaining process. In Nebraska, law mandating crew size will interfere with the ability of the railroads and the unions to fully bargain the best and safest crew size for each assignment. We've heard a lot about over-the-road operations today, but we also have to be conscious of in-yards and serving local customers. Those are all very different operations in railroading. It would hinder the investment and implementation of technology-driven safety improvements. Moreover, if crew size is determined to be an issue of regulatory action, it is most appropriately addressed at the federal level. Currently, the Federal Railroad Administration, the FRA, has proposed crew size rules pending-- that would establish minimum requirements for crew size. It was first introduced in 2016. It was withdrawn because there was no safety case for crew size. After the withdrawal, the rule was introduced, reintroduced and is now ready for release in about a year. The industry has a long history of investing in capital and implementing technology operating practices, new equipment and infrastructure improvements to enhance safety. The industry needs the ability to maintain flexible-- flexibility and incorporate the most and current safety strategies as technology evolves. Thank you and I'll be more than happy to take any questions.

GEIST: Thank you for your testimony. Are there any questions from the committee? Senator DeKay.

DeKAY: Thank you. I will ask you the same question I asked on, on-- earlier. If this bill is implemented, I'll start with cons for you

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first. What are the cons of this bill going forward, from your-- and then, what do you think are the pros of this bill?

ROD DOERR: Certainly, Senator DeKay. The pros-- the cons of this, this, this bill is it maintains the status quo. And as you have heard amply already, earlier today, there's a dissatisfaction on how the rail industry operates. The con or the pro, rather, is, is that if we maintain the status quo, we have very limited ability in this industry to make changes-- changes for the good. One example is the proposals of crew redeployment. Notice I did not say elimination of crew. I said crew redeployment, from the cabin to a different model. At least the vision that we have, at Union Pacific, is it places people in scheduled work. Quality to work life in this industry is a big deal and we, we need the ability to change how we do work. Putting people-- large numbers of people on call is not acceptable. We need to morph to a scheduled work environment so people can schedule their rest and their life, as an example.

DeKAY: Another question. With this-- say, if this bill fails to advance and we are able to use the discretion to go to one-person crews, if we're in an isolated area where there wasn't an ability to get another vehicle there in a short amount of time, would there have to be legislation come forward in the future to be able to let that engineer be able to get off that train and see what the problems are or, or would everything have to stay in place and that person stay there until the other vehicle gets there?

ROD DOERR: Right. There's a saying in this industry, the safest train is a stopped train. So we always have the ability in this industry-- in fact, all of our safety systems go to a fail safe, stop state. So if the engineer doesn't like what they see going on or don't believe that their train is handling appropriately, they, they will stop. Now, I, I, I disagree with earlier testimony, in that the FRA allows the engineer to leave the operating cab of the locomotive after the train is stopped. It is true that the regulation says they must be in close proximity to take corrective action. Prox-- close proximity is what we're quibbling over. The point here is engineer doesn't feel right about train, stop, call for help. At, at no time do we envision removing a, a crew person where the operating territory doesn't allow us to do so efficiently. If it makes better sense to leave the conductor aboard, then clearly, that's what we're going to do. But that is not the case across good portions of our railroad.

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DeKAY: So if a train is stopped now and, and there isn't a conductor available, the example I used earlier, if they come in contact with a vehicle and that vehicle is smoking or they can tell that who's ever in that vehicle is having health issues for whatever reason it may be stopped-- and that train stopped, are they able to disembark that train and try to rectify that situation before, to lack a better term, that person in that vehicle perishes because they're not able to get off the train?

ROD DOERR: And the answer to the question is yes, rendering aid in an emergency scenario. The FRA allows us to amply use emergency situations. The crew can stop the train, set the emergency brakes, tie some hand brakes and provide assistance. Oftentimes, the crews will request EMS services and EMS can respond, depending on territory, of course, quickly.

DeKAY: So with that, I'm just trying to figure out a timeline a little bit. If there was one person monitoring or even two conductors on a train, you come to a stop and there's a person that needs medical attention or first aid or help getting out of a vehicle, whatever. After the train stopped and the emergency brakes are set, can the conductor go render aid and the engineer be able to get off and tie the brakes? And how much time lapse between stuff and-- by the time the brakes are tied, does that usually take?

ROD DOERR: Clearly, it depends on the scenario. Has the incident occurred and that's behind the train now? Is it ahead of them? What weather conditions? I-- it's hard for me to answer that question, sir.

DeKAY: I appreciate it. Thank you.

GEIST: Yes, Senator DeBoer.

DeBOER: Thank you, Senator Geist. Thank you for being here, for your testimony. Are the cameras that were mentioned in the, in the crew, are those live or just recorded?

ROD DOERR: Here, until very recently, they were recorded and they would have to be downloaded physically from the head-end locomotive. It is within the last year or maybe two, that one can remote into those cameras. The entire fleet on Union Pacific does not have that capability yet, but certainly, we are moving in that direction.

DeBOER: What's the technology that you use for the transmission of the signal?

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ROD DOERR: It's our, it's our own network and/or cell backup. So we have communication towers along our right of way that moves our radio transmissions, that also-- that equipment also has the ability to, to move the, the video data.

DeBOER: Is that pretty solid along the-- along your tracks?

ROD DOERR: No. To be perfectly forthright, there are still dark territories on our railroad where that, that video bandwidth, I guess that's the way they talk, is, is not yet perfected.

DeBOER: Darn it. Because I was going to ask you if you could tell us how to do it better, if you had yours all solved. So the-- one of the things I heard from the testimony, so far, is that it takes two people to cut a train. Would you agree with that statement that it takes two people to cut a train?

ROD DOERR: I think so. There is a way to do it, but it's not foolproof. It's certainly not as good as having two people to cut the train.

DeBOER: Then we'd probably want to have two people to cut a train.

ROD DOERR: I think that's true. It's a different question to say does that second person have to be aboard?

DeBOER: Well, hopefully they're not on board, Right. They're, they're tying it down. So at some point, they get off board if they were on board.

ROD DOERR: Correct.

DeBOER: So you've got two people who are cutting the train for first responders to get through. You know, you would have to have people in a lot of places, in order for them to be able to get more quickly to the train than the first responders need to get through, in order to cut the train if they weren't on board. Is that right?

ROD DOERR: Our, our model is as we move to redeploy the conductor and place them into, in essence, well-equipped pickup trucks, is to have many of these people out on line of road. We're not talking about anybody goes home, as an employee today, without a job. All of our employees that would be displaced from the cab will be protected through work or some type of paying mechanism.

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DeBOER: But they still have to-- that's, that's wonderful to hear. In addition, the first responder who is getting through, arguably needs to get through pretty quickly, so you'd want to have the fastest possible mechanism to get that train cut.

ROD DOERR: Certainly.

DeBOER: Which, in some cases, would probably be the person in the crew, in the cab and in other cases, it might be somebody driving up, if it's accessible and you've got a guy nearby. So in some cases, it's much better to have that person there and you won't know what they are ahead of time because you don't know where the first responder needs to be when you've got somebody stuck, stuck on the pad. So in some cases, just for our first responders to get through, we need to have somebody there to cut the train. Right.

ROD DOERR: Answer to your question is yes. And the question is the how. Senator, we have used the last five years of our incident and our close call reporting data system to determine what incidents have occurred across our railroad or near-misses that have occurred across our railroads, at least those that have been reported. Based on our model of where we believe we will house our home terminal, to use railroad lingo, our redeployed personnel and putting them in a truck, we've, we've time stamped the amount of time it requires for a crew member to walk back into the train or leave by way of truck and drive to the incident. The advantage that we take, as soon as the incident is rectified back in train, you radio the conductor for them to take off. In today's current model, that conductor has to rectify the problem and then walk back to the head end before the train can take off. It is that additional period of time where we gain the benefit of somebody driving up to the point. Now, many of the detractors to this concept will tell you that doesn't work everywhere. And we agree. It's where you got a Highway 30 that goes right next to our railroad for most of the state, where this kind of model works very well. Our own data suggests that we can get a time benefit, not everywhere, but where we're talking about deploying this model. I hope that helps answer the question, Senator.

DeBOER: It, it does. Thank you. What about the concern that you've got a guy in there by himself or a woman in there by herself, as the engineer. They have a medical emergency. And now what? They're by themselves. Yes, the train will eventually stop, right, because you've got to wait until they haven't done the-- whatever they have to do to

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say all's well, the all's well button is what I think of it in my head.

MOSER: Dead man's switch.

DeBOER: The dead man's switch. Whatever. So the all's well button-- I like that better. And then, and then they don't hit that. And then it warns them for a period of time saying, hey, you haven't hit the all's well switch. So there's a whole period of time, if they go down right after they've hit the all's well switch, between when it comes again, their warning period and then, when it actually shuts down. The train is running, after they've started their medical emergency, for a period of time.

ROD DOERR: True.

DeBOER: And then, if they're in some more remote location on a bridge, on a trestle, whatever. How-- I mean, how long does it take to get to them before someone can start to render them first aid?

ROD DOERR: All right. Much like the earlier question, that depends on territory and the scenario. And, and it's hard for me to answer, but I will offer this. The alerter is the first line of defense. I ask everybody to think about the Swiss cheese slices. Our, our safety program for our railroad and that of most of the industry, think of a Swiss cheese model. And, and what we do is we identify the risk and then we put protocols in place to block the holes in the Swiss cheese to prevent that risk from getting through to our employees, the communities and our customers. So what we are talking about doing here is having the ability to head off the health concern before it's a concern. Most other modes of transportation have some kind of annual physical or that type of an approach. We have a very rudimentary approach here in the, in the rail industry. Next phase, is while the alerter will take action, PTC is its backup, that if it starts to-- if the train speeds, doesn't slow down appropriately or is getting too close to another train or a gang that's working on the track, it will stop. Each one of these events sends an alert to the dispatch center that cues up then, some type of a response. In this case, what we're talking about is immediately deploying our our, as others have used the term expediter, in other words, the deployed conductor, out to the train. If it's a medical emergency, then it would be EMS. EMS is appropriately trained and has all the tools to address medical concerns. The conductor today isn't trained that way. Certainly, they-- many of them have CPR training. But I would argue that other

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modes of transportation have the same very issue. Long haul trucking, U.S. postal workers, single pilot operations, they're all the same. So the idea here is to head it off way upstream with those stacks of Swiss cheese to prevent the risk from getting into, into the cab. I hope that helps answer the question.

DeBOER: And then, the last question-- I'm sorry to take so much time, but this struck me. One of the testifiers said that he has three computer screens, a horn, a bell, two sets of brakes and a throttle to keep track of and that to add things like paying attention to the, you know, the bearing, the hot bearing indicator and trying to figure out how to-- it's, it's more responsibility than one person should have. That does seem like a lot of responsibility, because I take your point about the truckers, but the trucker does not have three miles of train behind them. Right. So this is a lot of responsibility to throw yet another thing onto someone to watch.

ROD DOERR: I have the utmost respect for the train personnel that work these, these trains. I did it long ago. They are utmost consummate professionals. Their jobs are demanding. And those three computer screens and all of the controls that you're talking about is a big and important job. None of what we're proposing takes anything away from, from that comment. I would argue that as technology continues to evolve, more and more of the decision making will be, will be made and to assist the crew that is available, both in the truck, as well as aboard. And, and the various technology-- I wish we had time so that I could show you some of the things that we're developing. It's really impressive. And again, it's designed to help the crew make the very best decisions. I hope that helped answer the question.

DeBOER: Yeah. Thank you.

GEIST: Yes, Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thank you for being here. In your testimony, I'm trying to understand your opposition to this bill. It appears to be that this gets in the way of the collective bargaining process. Is that the crux of the argument?

ROD DOERR: Yes, Senator.

M. CAVANAUGH: OK. I'd like to start by asking, because I honestly don't know, do the railroads have to pay at the base a minimum of the federal minimum wage?

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ROD DOERR: Yes.

M. CAVANAUGH: OK. So your argument in opposition to this is that it interferes with the collective bargaining process. But as we have minimum wage, we have standards for employment and workplace.

ROD DOERR: Um-hum. Correct.

M. CAVANAUGH: We have minimum wage, we have safety regulations, we have OSHA, we have on and on and on and on. This seeks to codify what is current.

ROD DOERR: Correct.

M. CAVANAUGH: It doesn't seek to change what is current, it seeks to codify what is current.

ROD DOERR: Correct.

M. CAVANAUGH: So the argument that you're making is that you want to change what is current. And here's where we get into the rub. I think the case is being made for security concerns. It's been made every year that I have been here. This is the fifth time I've been here in session. And we keep hearing that we don't want this codified. We can always change what we have in our statutes. We can always go back and say technology has evolved, we're going to remove this security here. But we have had bills-- we've had bills this year, about the trucking industry and automation. And we don't have the-- we don't allow that industry to move forward with technology, without coming before the Legislature. So why should we allow the train industry to have the option to diminish security, without the approval of the Legislature?

ROD DOERR: There's really two primary reasons. The first is the carriers, as we're known, the, the companies, along with their unions who do this work every day have-- are probably in the very best position to say what will work and what won't.

M. CAVANAUGH: But I think the unions would argue that they think that this is what works and they're begging that we codify it so that in the negotiations, they can't-- that can't be used as a bargaining chip against other things like their benefits, their paid leave, their wages, that you're not going to bargain against their safety, that you're not going to hold them and say that they can't get paid livable wages, because if they do, you'll go to one man.

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ROD DOERR: So.

M. CAVANAUGH: And so, it's a bargaining chip that you are asking the Legislature to give you. And I don't think you're making a case for why we should give you that bargaining chip. And you haven't made a case in your testimony today as to why we should give you that bargaining chip, beyond the fact that you just want it.

ROD DOERR: I, I don't see it as a bargaining, bargaining chip.

M. CAVANAUGH: Then why not codify it?

ROD DOERR: What I do see-- I'm sorry, Senator?

M. CAVANAUGH: Then why not codify it?

ROD DOERR: Because the codification of a law into a law of current state does not allow us to exercise the ability to continue to advance technology in this industry and then work with our unions to come up the best, safest, most efficient, reliable transportation approach--

M. CAVANAUGH: It does not stop--

ROD DOERR: --for our customers and our communities.

M. CAVANAUGH: --it does not stop you from doing that. It, it requires you to go through the legislative process to do that, but it does not prohibit you from innovation and technology and developing these things and changing. What it does do is require you to come before the Legislature if you're going to change safety in the state of Nebraska. And I just think that maybe next year when we probably have this bill again, I'd like to hear an actual argument for why we should give you the flexibility to jeopardize the safety of not only the people in this room, but the people who live along those train tracks. So that's my advice to you. Thank you, Madame Chair.

ROD DOERR: Thank you, Senator.

GEIST: Are there any additional questions? Yes. Senator Bostelman.

BOSTELMAN: Thank you, Chairwoman Geist. Follow up with Senator Cavanaugh, one testifier earlier said that the-- I don't know if it was-- if it's UP, BNSF, who it is-- canceled five negotiating-- said canceled five agreements, was what I wrote down. And I guess that's in the cab. To me, that sounded like that the company walked away from

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the bargaining-- didn't allow the bargaining, the collective bargaining to happen. Can you speak to that? Could you explain that a little bit more?

ROD DOERR: Right. I'm-- I took over this current position in April of, of this past year. When I was in labor relations, again, responsible for these contracts, I, I am not familiar, at least on the Union Pacific side, with what agreements that we canceled. I'm not telling you that UP didn't, but I would think that that would have to come before me. So I can't answer the question, Senator.

BOSTELMAN: Fair enough. Do you know-- the other question I'll have is there was a testifier earlier, also testified there was 42 derailments in the state. And I didn't pull up the article. Did UP have any of those and what type of derailments were they, do you know?

ROD DOERR: I can't attest to the number. That's probably reported through the FRA database. I can confirm that UP has had derailments in this state-- coal trains, some manifest trains. To the number, I would have to look at the data and get that information to you, sir.

BOSTELMAN: That's fine. Thank you.

GEIST: Any other questions on the committee? I don't see any. Thank you for your testimony.

ROD DOERR: Thank you.

GEIST: Any other opponents?

MITCH HARRIS: Good afternoon.

GEIST: Good afternoon.

MITCH HARRIS: My name is Mitch Harris, M-i-t-c-h H-a-r-r-i-s. I'm the director of safety and training, regulatory compliance for Nebraska Central Railroad, also, parent company, Rio Grande Pacific Corporation and I'm proud to represent the entire short line railroad industry in opposition of LB31. Just a little bit about me. I'm a third generation railroader. I began my career with the Missouri Pacific Railroad in 1978 and joined the short line industry in 1993. Today, I'm responsible for the management of the safety-related policies and programs for Rio Grande Pacific and its short line railroads. Rio Grande Pacific operates 4 Class 3 short line railroads in six states, including the Nebraska central that employs 65 people. And we operate

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about three-- 340 miles of trackage on branch lines throughout the state. Senators, short line railroads are different from the larger carriers. We're a different type of operation. We don't have the volumes, the revenues or the economies of scale. However, safety, which has been talked a lot about here today, is paramount in our industry and it's our number one priority every day in Rio Grande Pacific and the Nebraska Central. We believe LB31, by requiring all crew members to remain in the cab of the locomotive except under very limited circumstances, would actually reduce safety, increase short line costs and negatively impact our customers because our train movements will take longer and be more expensive. We staff all of our trains with a minimum of two crew members: a certified locomotive engineer and a certified conductor. When the conductor is not actively involved in assisting with the train's switching operations, yard switching, servicing customers, those types of things, they accompany the train in a vehicle along its route, maintaining contact with the engineer via radio communication. We have been operating trains in Nebraska and in other states for more than 20 years without a single reportable incident or accident attributable to this method of operation. I will also offer that a recent survey, conducted by the American Short Line and Regional Railroad Association, indicates that over 400 short line railroads operate train-- operate trains safely, in the same manner, nationwide. Today. Staffing trains in a manner-- in this manner, allows the conductor to perform several functions that mitigate risk to the public and the train and increase operational efficiencies. Some examples are safe and efficient operations, the crew cannot prepare rail cars, sharks, switches at customer and yard locations in advance of the train's arrival. This includes all sorts of different things, like removing blue signal protection, placing safety devices, devices such as derails and handbrakes in the proper position that ensures equipment and personnel inside the facilities are safe. Crossing protection, we can provide flagging at public grade crossings where and when required, allowing the train to continue without stopping, which, you know, reduces the risk of potentially blocking other crossings for extended periods of time. And there it is.

GEIST: And there it is.

MITCH HARRIS: Can I have one last paragraph? In conclusion, OK.

GEIST: I'll have you wrap up. I have to be fair to everyone.

MITCH HARRIS: I understand.

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GEIST: Thank you for your testimony.

MITCH HARRIS: Thank you.

GEIST: Yes, Senator DeKay.

DeKAY: Thank you. Just to expand on what you were saying there for a second. If you had one person in a vehicle that's not the conductor, obviously not on the train, if everything's going according to Hoyle [PHONETIC], they can go ahead, you know, like in the case of a grain elevator or something, they could start the switching process that would expedite the time involved that they'll switch yards and possibly, cut costs to the grain elevators or the producers that are selling grain to those, you know, the cost of the transportation. Would that be fair to say?

MITCH HARRIS: Yes, sir, it would. And just to clarify, that person is a certified conductor in the truck.

DeKAY: OK. Thank you.

MITCH HARRIS: Yes, sir.

GEIST: Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thank you for being here. I'm sorry. I'm trying to understand the difference between your rail service and the other-- the like, Union Pacific and BNSF. Could you give me--

MITCH HARRIS: Sure.

M. CAVANAUGH: --a little bit more clarification on the difference?

MITCH HARRIS: OK. So, so just-- let me see if I get this right. We basically have three classes of railroads in the United States, based on revenue. Class 1 railroads are your larger carriers that were represented here today, in Union Pacific, BN. Class 2s are kind of in between. We call them regional railroads. And then, Class 3s are the short line railroads, we're the smaller companies. We're defined as small businesses by the Small Business Administration. We, we fall under FRA's policy on small entities. We're just a smaller company. And basically, what we're all about, ma'am, is to serve the customers. That's our job. We're not operating from point A to point B for hundreds of miles at a time. We're between point A and point b, one customer after another, one yard after another, that type of thing.

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M. CAVANAUGH: So how long are your trains, typically?

MITCH HARRIS: The longest trains would be a unit grain train, probably maybe 120 cars, somewhere in that area. A little over a mile.

M. CAVANAUGH: A mile. OK. And then-- and you typically have two members-- two crew members on your trains?

MITCH HARRIS: We do.

M. CAVANAUGH: Currently?

MITCH HARRIS: Not necessarily on the train, which is our reason for opposition--

M. CAVANAUGH: OK.

MITCH HARRIS: --to this bill. That second person, we have the locomotive engineer. That second person is in the cab-- sometimes, is in the cab of the locomotive, depending on what the activity is. But for the majority of the time, is actually operating-- they're operating the pickup. They're in a vehicle.

M. CAVANAUGH: Driving alongside the train.

MITCH HARRIS: Correct. Accompanying the train.

M. CAVANAUGH: OK. So for your business, it would require that second person to actually be physically in the train?

MITCH HARRIS: Correct.

M. CAVANAUGH: But there is a path forward if there were some sort of-- I'm not-- I have not spoken to Senator, Senator Jacobson about this. So he might be like, what are you saying, Senator Cavanaugh? Absolutely not. And people-- friends in the, in the audience here might say the same thing. I'm just wondering if there were an amendment that allowed for that-- for Class 3 trains to continue operating that way, would that remove your opposition?

MITCH HARRIS: I, I think that's a possibility, yes, because that is the opposition. And to be, to be honest, we're not clear on it. But the way the bill is written now, we're not clear if it's actually requiring that second person in the cab, because it does not state that.

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M. CAVANAUGH: And I, I would defer to our legal counsel for an answer on that, which I probably will, out-- outside of here.

MITCH HARRIS: OK.

M. CAVANAUGH: But so, Class 3 railroads' opposition is that it would change how you're currently operating?

MITCH HARRIS: Right.

M. CAVANAUGH: OK. That's very helpful.

MITCH HARRIS: That's fair. And, and yeah. There's over 400 short lines that responded to the survey and operate this way today and have for many years.

M. CAVANAUGH: OK.

MITCH HARRIS: Safely. So.

M. CAVANAUGH: Thank you.

MITCH HARRIS: Yes.

GEIST: Senator DeKay.

DeKAY: Just to clarify, so the short line trip, a turn around would say Norfolk to Columbus or from Brunswick to Columbus and back. Is that considered what would be a short line trip for a day or a turnaround?

MITCH HARRIS: Sure. You know--

DeKAY: So there could be 80 miles--

MITCH HARRIS: --fifty miles--

DeKAY: --eighty miles to 100 miles.

MITCH HARRIS: --total. All right.

DeKAY: OK. Thank you.

MITCH HARRIS: Yes, sir.

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GEIST: Any other questions? I don't see any. Thank you for your testimony.

MITCH HARRIS: Thank you.

GEIST: Any other opponents? Good afternoon.

NICHOLE BOGEN: Thank you, Senator Geist. I'm Nichole Bogen. I'm an attorney representing Nebraska Central Railroad. You just heard from parent company Rio Grande Pacific Corporation.

GEIST: Ms. Bogen, would you please spell your name for the record, please?

NICHOLE BOGEN: Yes. First name Nichole, N-i-c-h-o-l-e, last name Bogen, B-o-g-e-n. I practice railroad law in Nebraska and federal courts for almost 20 years. And I want to touch upon some of the potential legal challenges that LB31 could face. First, is the vagueness that my colleague touched upon. The phrase in paragraph 2 of LB31, is unclear what is meant by a crew of two individuals. Who is going to define crew? Where is the crew located? Is the crew's location going to be limited to the cab of the locomotive? As it's written, my client, Nebraska Central Railroad, would not know if it was compliant with LB31. As you heard, the engineer is in the cab and their conductor is usually in a vehicle, either nearby the train or working ahead of the locomotive into the facility of their clients. More likely, though, is federal preemption-- could preempt LB31. Here, we're talking about, generally, the Federal Railroad Safety Act that was passed to promote safety in every area of railroad operations and reduce railroad related accidents and incidents. The act generally applies to all railroad carriers, including Class 3 railroads and safety-related railroad employees, such as our engineers and conductors that we heard from today. It gives authority to the Secretary of Transportation to prescribe regulations and issue orders for every area of railroad safety and security. As a result, the Federal Railroad Administration publishes regulations that govern the railroad industry in all areas of operations. While the FRA doesn't currently have a regulation on crew size, they did issue a proposed rulemaking, which you heard about earlier, that is still under consideration. If LB31 passes and is issued, it would expressly preempt any state regulation that's issued by this body, which we refer to as express preemption. If the FRA declines to issue a federal regulation, that could take on what we refer to as negative federal preemption, the [INAUDIBLE] ruling, where no state regulation would be

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appropriate. Even without a specific FRA rule, the FRA regulatory framework is very comprehensive, and there's an argument can be made that it shows an intent to occupy the field of federal preemption. Finally, if you-- for those who may recall, in the late eighties, there were several federal cases that came about in regards to the occupied caboose laws. And we have a Eighth Circuit case, the Burlington Northern Railroad case, versus Minnesota, that found that states could not require occupied cabooses when the railroads-- and the FRA came out with rear-end telemetry devices. And we believe this would also fall into that.

GEIST: Thank you for your testimony. Are there questions? Senator Fredrick-- go ahead. Yes.

FREDRICKSON: Thank you, Chair Geist. Thank you for being here and your testimony. So you, you mentioned something that you had a concern about, in terms of the legality. You said that there was lack of clarity on the-- on, on, on who the crew was or the two crew members. I, I, I think it's--

NICHOLE BOGEN: Right.

FREDRICKSON: --kind of clear that that would be the engineer and the conductor. Are, are you-- if that was an amendment that specified those two members, are-- would you-- are you suggesting that you wouldn't be opposed to this?

NICHOLE BOGEN: Well, it's potential that, as I'm here representing Nebraska Central Railroad, it's possible that we would still be in opposition to it. As you heard from Mitch Harris, my client before, right now, the way Nebraska Central operates is the engineer is in the cab of the locomotive. We do assign, currently, a certified engineer-- federally certified, there's federal certifications/requirements by the FRA-- and a certified conductor to the train. So there's two crew members assigned, the engineer in the locomotive, conductors in a vehicle, not in the cab of the locomotive. Right now, it just says two crew members assigned. As a lawyer, I don't know what that means. So I don't know if they're currently in compliance with LB31 as it's written, if that's compliant. Some of the testimony earlier was it needs to be in the cab of a locomotive. So there's a, a vagueness there. If it's, if it's amended to be in the cab of the locomotive, that would be a burden on my client, Nebraska Central, because they would have to try to hire more people to meet that requirement. And it's already extremely difficult to hire individuals as it is now, to

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get enough employees where they're located, headquartered in Norfolk, Nebraska. It would increase their costs, it would decrease their efficiency. That would increase costs to their customers, their grain elevators, their local Nebraska clients that they're-- because they're going to the local grain elevators, ethanol plants, that type of thing, throughout Nebraska, picking up those loads. Because they wouldn't have that person-- they'd have the person mobile in the vehicle, but then they'd have to have the two crew members in the cab.

FREDRICKSON: So, so the way they're, they're currently operating would not be in compliance with this bill if it were to pass. Is that correct?

NICHOLE BOGEN: Possibly. If the intent of the bill is to have both people in the cab of the locomotive, they would currently not be in compliance.

FREDRICKSON: Thank you.

GEIST: Yes. Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thank you for being here. And I apologize if this was more appropriate for Mr. Harris, this question. But--

NICHOLE BOGEN: Not a problem.

M. CAVANAUGH: --did anyone from your client reach out to Senator Jacobson's office with these concerns and to get clarification on his intention with this bill?

NICHOLE BOGEN: We did not have an opportunity to speak with him yet, today.

M. CAVANAUGH: Well, he introduced the bill on January 5, so.

NICHOLE BOGEN: Yeah, I don't know if they've had an opportunity to speak with him prior to today.

M. CAVANAUGH: I ask because you came in opposition and you came in opposition without really understanding, it seems, to have clarity as to what his intention is. And it's kind of frustrating for senators to sit here and hear somebody come opposed to one of our colleague's bills that they introduced on the first day of bill introduction without a conversation with them to provide clarity on whether or not the intention was to include your client. And also, oftentimes, we can

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bring an amendment. And if that amendment is given a seven-day notice, then it is made public and people will come in, not testifying, testifying in opposition to a bill because the amendment has been brought. So it's--

NICHOLE BOGEN: I understand.

M. CAVANAUGH: --kind of like, rude--

NICHOLE BOGEN: OK.

M. CAVANAUGH: --to do that. And that's why I'm asking, because Senator Jacobson can't get up here and ask you that himself.

NICHOLE BOGEN: All right. And I understand that. I think the, the additional issue there is I don't know that that would alleviate all my customer's-- all my client's concerns with it.

M. CAVANAUGH: Well, first, we would start with knowing if your client's concerns were, were realized with the intention of the bill. Because if the intention of the bill is to include your client, that would be helpful to know. And I think Senator Jacobson will probably speak to that in his closing, now that we've had this conversation.

NICHOLE BOGEN: OK.

M. CAVANAUGH: Maybe he will or I'll ask him about it.

NICHOLE BOGEN: All right.

M. CAVANAUGH: But I just-- for process' sake, when a bill is introduced on the first day of bill introduction and we're in March now, it's three months later, to have no conversation with the introducer--

NICHOLE BOGEN: Yeah.

M. CAVANAUGH: --that might alleviate the concerns of your client, you might not have even needed to show up today. And so I just wanted that stated for the record, because it does seem like this is a fixable problem for your particular client. And it seems like for some of the other people that are testifying in opposition, they have very different opposition. And I, I don't really want you all to get bogged down in that opposition unnecessarily, so thank you for your testimony.

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GEIST: Senator DeKay.

DeKAY: Thank you. Just a quick question. If-- say if this bill fails to advance, is there any course of action that a conductor would say, no, I don't want to be in a pickup, I want to be on the train and be able to have the ability to do that or what's your thoughts on that?

NICHOLE BOGEN: Currently, with Nebraska Central Railroad, I'm not aware of that-- the ability to, to do that.

DeKAY: All right.

NICHOLE BOGEN: That's not currently how they operate in Nebraska.

DeKAY: Well, I, I didn't know. That's why I asked. So thank you.

NICHOLE BOGEN: Certainly.

GEIST: Any other questions from the committee? I do have one. Federally, if there is a ruling from the FRA, will that affect your business the same as it would affect any other larger rail association?

NICHOLE BOGEN: Possibly. There is-- that proposed regulation is much more complex in its wording and there are like, applications for exemptions within it. And there is a-- there was a lengthy proposal, put forward by the American Short Line Association, as to a lot of concerns they had that the exemptions were not broad enough for the Class 3 railroads, specifically on how they operate, as testified to by Mr. Harris. And he also testified in Washington, D.C. against that, that the FRA was not considering their needs and concerns as a small business.

GEIST: Understood. Thank you. Any other questions from the committee? Thank you for your testimony.

NICHOLE BOGEN: Thank you.

GEIST: Any other opponents? Good afternoon.

JEFF DAVIS: Thank you, Madam Chair, members of the committee. Jeff Davis, J-e-f-f D-a-v-i-s, appearing on behalf of BNSF Railway. We appreciate the safety concerns raised this afternoon. BNSF operates more than 1,300 trains a day and safely moves more than 50-- 50 million rail cars every year. Accidents sometimes happen. We study

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each and every accident so we can prevent them. Our goal is zero accidents and to make sure that every one of the men and women here, who work for us in the rail industry, can go home safely to their families every night. A skilled union workforce and a culture promoting safety are the foundation of our safety plan, but sometimes we disagree with our employees on how to get there. Infrastructure and technology of investments have been essential to reducing the number of train accidents, while we haul more than double the amount of freight we hauled 40 years ago. Over the last ten years, BNSF has invested more than \$40 billion in our network, more than \$1 billion in Nebraska. Most of that money goes to replace aging equipment and infrastructure, but new technology is also a driving force in rail safety. Automated geometry cars that perform track inspections 24/7, the hot box detectors that you've spoken of, BNSF spent more than \$1 billion on positive train control and it does work. We disagree with our union that LB31 is about safety. We've reduced crew size at least three times over the last 50 years. It's never easy and the unions always propose legislation. Forty years ago this month, this body enacted a bill to save the cabooses. As everything you heard today, an extra person was essential for safety. Today, we've reduced the number of train accidents by over 80 percent. End-of-train devices and other technology got us there. More than 400 short line railroads in the United States and at least two or three in Nebraska have been safely operating with one engineer in the cab for two decades or longer, with no reported incidents. This is a collective bargaining issue and a federal issue. Railroads can't unilaterally change an evergreen contract and the president's emergency board affirmed that point. Almost 100 percent of Nebraska's freight is interstate commerce. We need a federal solution. This is the ninth year this bill has been heard. Nothing's going to change. We'll have two people on every train until we can reach a voluntary agreement with our unions. And until-- and we're going to be committed to safely working with our unions, with the FRA, with you, to meet the needs of our customers and the public. Thank you.

GEIST: Thank you for your testimony. Are there any questions on the committee? Yes. Senator DeBoer.

DeBOER: Thank you. Thank you for being here, Mr. Davis. I, I heard one thing at the end I just wanted to ask you about. You said you're going to continue to operate with two people in your trains until you have a positive agreement with your labor union to change it. Is that what you just said?

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JEFF DAVIS: Right.

DeBOER: That's what you just said?

JEFF DAVIS: Yes.

DeBOER: Oh, OK. So then, couldn't we just pass this bill? Would that-- I mean, maybe you guys will do it, but there's other--

JEFF DAVIS: Well, I mean, contractually, it's the national carrier's conference that Mr. Doerr spoke of. So there's one-- sort of, my understanding is there's one comprehensive agreement between the railroads and the unions. And my understanding is that there is-- there's one, sort of, evergreen contract that does not expire and we can't unilaterally change that contract. So we, you know, to, to work this out, we have to have their consent.

DeBOER: So then, we could pass this. And if everybody came to an agreement, we could change it. We could say, look, everybody's agreed.

JEFF DAVIS: Well--

DeBOER: I mean, wouldn't--

JEFF DAVIS: --I--

DeBOER: I mean, isn't that, isn't that true that we could do that?

JEFF DAVIS: --well, it's, it's true that you, you could do that, but that's-- I mean, in, in, in the past, that's not how it worked. I don't think we ever came-- we had to come back to the Legislature after you passed the bill or after the Legislature passed the bill, 40 years ago and said, save the cabooses. You know, it was, you know, resolved in other ways and it takes time, it takes more, you know, it's-- you know, it's not, it's not-- you know, time marches on and I can't tell you what's going to happen in five or ten years. We want to be able to adopt safety and work with the union and with the FRA and the people who, who study and work with this on a daily basis, to make the best decisions about safety possible.

DeBOER: What if we did it with a four-year statute, five-year statute of limit-- like a sunset? I meant sunset. What if we did it with a five-year sunset? Can we look that far out?

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JEFF DAVIS: Well, honestly, you know, I've, I've had this discussion with others. And according to the, according to the Biden administration, it's all going to be preempted in the next 12 months. Arguably, it might already be preempted, because even though, you know, there is a rule and there was a finding that they violated the administrative procedure-- or there was a decision that they had occupied the field and there was a finding that they had violated the Administrative Procedures Act, but I'd still say that the field has been occupied.

DeBOER: All right. Well, that's a federal preemption argument, and I--

JEFF DAVIS: Right.

DeBOER: --have entirely too many of them in my life right now. But if we did this bill that Senator Jacobson has brought and we put a sunset on it, would that bother you?

JEFF DAVIS: Yes, because we want to be free to work this out with our, with our union, with the FRA and to, to use the technology that we have invested in that is already-- you know, you just heard the Nebraska Central say that they're doing this on a limited extent. There are approximately 400 other-plus railroads doing this. And you do have Amtrak, who is apparently operating through this state as well in other states, up to 129 miles an hour, with only one person in the cab of that locomotive.

GEIST: Please be quiet.

DeBOER: All right. Thank you.

JEFF DAVIS: Thank you, Senator.

GEIST: Any other questions? Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thanks for being here. I've written down a quote that I wanted to start with because you've said it twice now, So I just want this for the permanent record that Jeff Davis said "save the caboose" twice. I just love it. You want to save the caboose. So if I had a crystal ball four years ago, would we be here? I didn't think so, but here we are. That was our conversation four years ago, that you had a crystal ball. I didn't notice that you didn't bring any charts this time, so sorry for that, because I really wanted to talk about the-- when you had three on a crew. So we have two people on a

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crew and you said-- we did used to have three people on a crew, so it changed at some point. Do you recall when that was?

JEFF DAVIS: Sometime between the early eighties--

M. CAVANAUGH: OK.

JEFF DAVIS: --and the early nineties.

M. CAVANAUGH: So it hasn't-- it's been two for a while.

JEFF DAVIS: It, it has, it has been two for a while. I would say that all of those people who were employed were, were grandfathered in and protected. So, you know-- and, and there are contracts out there where, in certain circumstances, we still use three people for certain specific train moves--

M. CAVANAUGH: Sure.

JEFF DAVIS: --and certain situations.

M. CAVANAUGH: But the, the change from three to two, but that's-- I just wanted clarification on that. So kind of-- the similar-- as the previous testifier-- not the previous, the first testifier in opposition about the, the collective bargaining issue. It, it, it really feels like you're asking us to give you leverage in your industry-- give your industry leverage in the collective bargaining process over the employees, by saying that we shouldn't codify this in law. Because if the current standard, to Senator DeBoer's point, is that there's two people on the crew and the argument is that you don't want that codified because you want to have that as part of the collective bargaining conversation. My concern is that we are going to be leveraging employee safety against wages and other benefits. And I, I guess I don't understand why we would-- we, as a Legislature, would allow that.

JEFF DAVIS: So.

M. CAVANAUGH: Taking the federal--

JEFF DAVIS: Right.

M. CAVANAUGH: --take the federal issue off the board.

JEFF DAVIS: Right.

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M. CAVANAUGH: Why should we allow that to be a part of the collective bargaining?

JEFF DAVIS: Because I believe the union has all the leverage, that we can't do anything without their consent and agreement.

M. CAVANAUGH: Well--

JEFF DAVIS: And so, they're not going to do anything.

M. CAVANAUGH: --that's not-- and I mean, that's not entirely true, because we saw that, that the federal government actually forced them to continue working this last year. And so they don't have the leverage. They only have the leverage that we are really giving them. And not that this is the railroad's fault, but the sins of others are coming into play here. We had a massive issue with collective bargaining and our Kellogg's plant, here in Nebraska and it was primarily around safety. It was wages, but also primarily around safety. And so my concern and I don't feel like it's being addressed and maybe it can't be addressed, but my concern is in not doing this, we are allowing the railroad industry to leverage employees' safety for, basically, profit gains.

JEFF DAVIS: I, I under-- I understand that that's your concern, Senator.

M. CAVANAUGH: OK. Thank you, Mr. Davis, for being here. It's always a pleasure to see you.

JEFF DAVIS: Thank you, Senator.

GEIST: Any other questions from the committee? Seeing none, thank you for your testimony. Good afternoon, almost evening. Not quite there yet.

RON SEDLACEK: I think I wrap this up for the opponents. Chair Geist and members of the Transportation and Telecommunications Committee, my name is Ron Sedlacek, R-o-n S-e-d-l-a-c-e-k, and I'm general counsel and a registered lobbyist for the Nebraska Chamber of Commerce. I appear on their behalf today and they would like to be on the legislative record-- committee record, in opposition to LB31. It's not the first time we've been here on this type of legislation. We've been here on previous iterations on behalf of our transportation council, as well as our board of directors, who have reviewed the legislation and asked me to, to come testify. When involving interstate

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transportation and commerce issues, the Nebraska Chamber recommends consistent and uniform regulation, as opposed to a patchwork of inconsistent state regulation. That's-- that would be the recommendation. Obviously, such rulemaking is within the purview of federal law, particularly, in regard to interstate commerce, addressing this particular industry. Doing so gives our railroad industry the certainty that it can look at federal law, rather than work with the patchwork of potentially inconsistent state regulation to comply with. As has been mentioned in previous testimony, we now have U.S. Department of Labor announcing that they'll be advancing the true-- the train crew staffing rule. Therefore, we ask the committee to consider that, defer this policy conversation with the federal government and appropriate regulatory bodies, for a federal solution to this problem. With that, I'll conclude my testimony.

GEIST: Thank you for your testimony. Any questions? I do not see any. Thank you. Any other opposition testimony? Are there any who wish to testify in the neu-- neutral capacity? Good afternoon, Commissioner.

TIM SCHRAM: Good afternoon, Chair Geist and members of the Transportation Telecom Committee. My name is Tim Schram, T-i-m S-c-h-r-a-m. I represent the Nebraska Public Service Commission's Third District, and I'm here today to testify in the neutral capacity on LB31. LB31 would create a statutory requirement that qualifying trains and light engines moving freight rail-- operated by at least two persons. As currently written, the Commission would be tasked with enforcing the statute and levying fines based upon violations of this provision. The Commission encourages any policies that promote the rail's safety. The Commission was created in 1885 to regulate railroads and our authority is now largely confined to railroad safety. Since 1976, the Commission has partnered with the FRA to administer the Nebraska Rail Safety program and has statutory authority to enforce federal railroad standards for track safety, freight cars and locomotive safety standards, glazing materials and brake systems under Nebraska Statute 75-401. With over 3000 miles of track operation of about 34.5 million pounds of freight that originated by rail in Nebraska in 2021, the Commission recognizes the importance of ensuring public safety and the safety of rail employees that do the important work of moving necessary goods and commodities through the state. We are currently in the hiring process for motive power and equipment, MPE, inspector. However, due to competitive federal wages for similar positions that are-- were-- and were limited to a qualified applicant pool, we have been unable, unable to hire an MPE inspector. However, let me assure this committee and the citizens

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in Nebraska that we are aggressively seeking applicants to fill our statutory obligations. I would also like to note, that although the Commission has the statutory authority to employ a track inspector, the Commission's appropriations request to the Legislature for that position has not been approved since 2011. In September 2022, the Commission filed comments to the FRA supporting the proposed federal rulemaking that would require two-person crews. They-- two-person crews can use their judgment, expertise and experience, anticipate any potential and avoid emergencies in other dangerous situations. We remain consistent in that position. It's already been said, we support the efficient flow of interstate commerce and believe that the federal-- we encourage federal regulation of the two-person crews. I'm limited on time. We would ask that the LB31 be amended to revise Nebraska Statute 75-401, to include the relevant federal provisions for an operational practices of operating inspector. We did provide a fiscal note that details associated costs of salary and benefits. Thank you and I would be happy to answer any questions.

GEIST: Thank you for your testimony. Are there any questions on the committee? I have one. So this position hasn't been filled since 2011? Is that correct?

TIM SCHRAM: That is correct, yes.

GEIST: Because you've not been appropriated the funds to fill the position?

TIM SCHRAM: That is correct. We did ask for it in the 2013-'15 biennium, 2017-'19 and 2019 and 2021. And also, we worked with Senator Stinner and supported LB140, in 2021 session, in the Appropriations Committee. We looked at looking outside the box, since we were denied a number of times of general funds. We looked at creating a cash fund to fund the rail safety program.

GEIST: So does that mean that, that someone else is performing that duty or does that mean that, that the inspections aren't being performed?

TIM SCHRAM: The FRA does have inspectors in Nebraska--

GEIST: OK.

TIM SCHRAM: --that, that are currently doing it. I can't tell you how many inspectors they have in this state, but the FRA-- the, the state programs are supplemental to the federal FRA's programs.

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GEIST: OK. So the tracks are being inspected?

TIM SCHRAM: Yes.

GEIST: OK. Thank you. Any other questions? I don't see any. Thank you for your testimony. Appreciate it. Are there any other who wish to testify in the neutral capacity? Seeing none, Senator Jacobson, you're welcome to close. And as you close, I will let you know, there were-- we did receive ten letters, nine that are proponents, one in opposition and none neutral. You're welcome to close, Senator.

JACOBSON: Thank you, Chairperson Geist and members of the committee for your patience this afternoon. I know this committee meeting's run a lot longer than any of us anticipated. I will try to be as brief as possible. I'd like to respond to a couple of questions that I know-- Senator Cavanaugh is going to ask me this question so I'm going to answer it before you ask it. I did meet with officials from the UP and from the Burlington and those are the only people who reached out to me. So I've not heard from any other interested parties other than those two. We had a productive conversation. I think we agreed on many issues and we agreed to disagree on a couple. I would tell you that this is not a collective bargaining issue. I'm here because this should not be a collective bargaining issue. I'm here, as Senator Cavanaugh had laid out, my constituents and your constituents are sitting in this room. They're the ones who's-- who have testified in a positive capacity. The others are from outside the state of Nebraska, representing railroad interests. I get that. And I'm just saying, that when I say this is not a collective bargaining issue, I don't-- we don't go to the collective bargaining table and negotiate for safety for the public. OK. If you've watched the news, unless you've been living under a rock, but there have been a few problems with safety. And I always have to think about this when I hear all these reports, we're all about safety. Well, then why are we having these derailments? Remember, we went from five crew members to three. We eliminated the, the, the cabooses. And now, we're down to two people in the crew. Two people. Meanwhile, train lengths have gone from a mile to 3.5 miles. We were told that Amtrak only has one crew member. That's an outside-- that's an absolute lie. It's a lie. Amtrak has at least 2-3 crew members on those trains. So it, it-- it's not the case. And it's frustrating when I have people give testimony that they know is false. So the point here is that what I look at is we're just asking for the status quo in this bill. We're asking to maintain the crew sizes here, even though the train lengths have gone 3.5 times as long as they used to be and-- to become more efficient. I'm, I'm

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certainly open to considering what would happen on the short lines. It would have been nice to have them meet with me back on January 5 or shortly thereafter to discuss any concerns that they have. But I would tell you-- but they did not. I would also tell you that if you think about going to the Powder River Basin for coal, you're going to go across a huge section of area-- there are no roads. It's the railroad. They're out there in the middle of nowhere. So when you start thinking about who is going to be there to take care of anything, there's nobody there. You can't even get there by car in a lot of those areas, without going across private property to get there. That is a problem. When you think about blockages, what are the blockage problems when you go from a 1-mile train to a 3.5-mile train? A lot of blockages. What happens with first responders? That's why this is a public safety issue, as well as a worker safety issue. I'll let the railroad workers negotiate for their own collective bargaining as it relates to worker safety, but when it comes to public safety, that's why I'm here. That's why you're here. At the end of the day, I would just tell you that the bill also, if you read it, it does exclude trains that are, that are being loaded, hostlers, during a helper service, the utility employees, those are all exempted in the bill. This bill is 2 pages long and it was left fairly general for a purpose. I've never had an attorney meet, to agree to talk to me before and say your bill is too general. They generally come back and tell me, well, you got this in here and I'm opposed to this. Well, at least we've left it wide open for a lot of interpretation, which I would think would be a good thing. So with that said, I do think this is a worker safety issue. I think you can look at the testifiers here today and you can see there are a lot of people that care about this issue. That's why I brought the bill and I would entertain any, any questions. And again, thank you for your patience.

GEIST: Thank you for your testimony, Senator DeKay.

DeKAY: Thank you. Two quick questions. First one, with the size of the crew going down as the number of incidents over the last few years gone up, do you have information on that or--

JACOBSON: Most recent statistics I've looked at and this goes back probably 10, 15 years, I believe the derailments that were reported-- and keep in mind, this is only reported derailments. Reported derailments are those that have, I think, around \$12,000-13,000 worth of damage. So there's-- there are derailments that happen all the time where there's no damage and those are not reportable. I think they were around 14,000 and they're down to just under 12,000. So I guess

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it's kind of like my kid came home and said, hey, give me a pat on the back, I've got a D. I used to have an F. So I think that's-- there's, there's still a problem out there. And let me also just mention with that, there's a lot of talk about safety and the safe-- and the, and the technology. OK. Well, let's go back and talk about the Ohio problem, where they had the detectors and the train went right through those detectors and it kept on going. So is that the kind of safety we're referring to? Is that the safety protocol that we're supposed to all rely upon, so we can eliminate another crew member and ultimately, go to zero and just let technology take care of it? I'd also tell you that when you start looking at semis going down the interstate, long haul, if they have a problem, there's a lot of other people on the interstate with them, on the two-lane highways or wherever they're at. You don't have that with a train, not when you're going up the Powder River basin, not when you're going out in remote areas. You don't have that. But you don't have the public there watching what you're doing, too. But, go ahead.

DeKAY: You alluded to this and this will be a quick question, will this bill be consistent with all three classes of railroad and, and also including Amtrak going forward as [INAUDIBLE]?

JACOBSON: Well, it would. And again, let me be clear with, with-- and this is-- actually, this is freight trains. It's, it's not dealing with Amtrak. And Amtrak has their own rules--

DeKAY: OK.

JACOBSON: --and I indicated that I've seen the Amtrak rules and they don't run with one crew member only. That's, that's false. It would-- all, all, all classes of railroads that are, that are not in yards, loading and so on. I'm certainly open to having discussions. I'm still trying to figure out how it's most-- more, more effective to have a pickup driving alongside the freight train. And, and we're doing that in a matter of efficiency and lower costs. But hey, I'm a, I'm a slow learner, but I'd be willing to listen.

DeKAY: Well-- and back to the short track trains real quick. I mean, if there's a amendment or something and I don't know what the-- and somebody can educate me on the amount of incidents, they, on the short track, that they might have a derailment, too. But if the-- if those incidents are minute and very small, on an 80-mile round or 100-mile round trip, if there is an amendment or, or would that be something that would be possible legislation next year?

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JACOBSON: Well, I could just tell you that from what I've seen, I think one reason the incidents are down on those-- on the short lines is, is, is speed and length of trains, which, which makes some differences from the ones that I've seen operated within Nebraska. I'd also mention that for what it's worth, there are eight other states that-- who have adopted this language. So this is not merely something that, that the feds would exclude. There was a court case and that did rule that these were legal and that the states could intervene with their own rules. So this is not something that's going to be blocked by the courts. It is a patchwork. I get that. I would like to see the FRA and the federal government rule, but until that time, this is pushing them in the right direction.

DeKAY: But I would, I would end with this. Safety is going to be paramount on how we deal with this bill and bills like this going forward. So, thank you.

JACOBSON: I would agree. Thank you.

GEIST: Any other questions? Seeing none, thank you.

JACOBSON: Hey, enjoy your evening. Thank you.

GEIST: Thank you. We have a lot more to go. We're going to take a break until 5:00, so we will convene again at five.

[BREAK]

GEIST: Excuse me. We're going to go ahead and start. Go ahead, Senator. You're welcome to open.

DUNGAN: Thank you. Good evening, Chair Geist and members of the Transportation and Telecommunications Committee. I'm Senator George Dungan, G-e-o-r-g-e D-u-n-g-a-n. I represent the people of northeast Lincoln in Legislative District 26 and today, I'm introducing LB44. LB44 reinstates Nebraska as a member of the Midwest Interstate Passenger Rail Compact or MIPRC. The MIPRC was conceived by midwestern state legislators in the late 1990s, through the Council of State Governments' Midwestern Legislative Conference and was developed with input from federal and state officials. Nebraska was one of the first states to join the compact, after then Mike-- Governor Mike Johanns signed the enabling legislation in 2001. The compact brings together a number of states: Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, North Dakota and Wisconsin, as of right now, in order to coordinate and advocate for passenger rail improvements across the

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midwest. In addition, the MIPRC works with public and private sectors in the federal and state and local levels to ensure coordination among the various entities having an interest in passenger rail service. MIPRC has also taken the primary role in advocating for federal government collaboration with states for passenger rail development, similar to the partnership it has with states on other modes of transportation. With bipartisan mix of gubernatorial, legislative and private sector delegates from each member state, the MIPRC has been successful in protecting long distance passenger rail service, including the California Zephyr line service through Nebraska, as a valuable transportation option for many midwesterners. My office has been in conversation with the MIPRC and we actually have talked to them about the back-paid dues that have been brought up at past hearings. As of right now, it sounds like the MIPRC is willing to waive any back-paid dues. And so, it would not cost us any unpaid fees to get back into the MIPRC. I believe it was \$15,000 they were saying we'd have to pay to get back in, of unpaid dues. They are willing to waive that, so that's not going to be an additional cost. In addition to that, if LB44 were to pass Iowa has represented to our office that they would be much more likely to follow in Nebraska's lead and rejoin the compact. Part of the reason that's important is one of the major components of the plan that the MIPRC's been working on is a line between Nebraska and Chicago. And Iowa being a part of that's going to be very important to make sure that happens, as well. So it does sound like Iowa would hop back on board, as well, if we do it, too. Nebraska has been a leader in rail for over 100 years. We are a pro-rail state. It's important for Nebraska to have a voice in current and future passenger rail development that will bring significant transportation and economic benefit to our state. Thank you for, for your consideration of LB44. Happy to answer any questions the committee might have.

GEIST: Thank you for your testimony. Are there any questions? I do not see any. Do you plan to stick around for close?

DUNGAN: I do. And I also just want to mention, I have handed out the MIPRC pamphlet, there. That just gives you a little more information about what the MIPRC is and some of the history of how they came to be. So that's just a little back information there, to cut my testimony a little bit short.

GEIST: Great. Thank you very much. Any proponents?

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MATTHEW ROQUE: Hello and good evening. My name is Matthew Roque, that's M-a-t-t-h-e-w R-o-q-u-e. First, I want to thank Senator Dungan for introducing LB44 and for the additional senators who have added their support of it. My appreciation is also extended to Senator Geist and to the rest of the Committee for their work on behalf of the citizens of Nebraska. I'm here today to rep-- representing ProRail Nebraska, a nonprofit advocacy group focused on increased passenger rail service, as well as other public transportation needs within the state. At its inception, Nebraska was a founding member of the Midwest Interstate Passenger Rail Compact, or MIPRC. Nebraska took this bold step because members of the Legislature recognized there were benefits to cooperating with other states. MIPRC provides a source for regional passenger rail planning, as well as multi-state information sharing and contacts. It is a forum for discussion in developing essential technical and professional contacts in other states, such as Kansas and North Dakota, with similar rail needs and challenges. As some of you are aware, Amtrak, the National Passenger Railroad Corporation, daily serves the state with a pair of passenger trains, the California Zephyr, operating between Chicago and Emeryville, California. These trains stop at five stations within the state: Omaha, Lincoln, Hastings, Holdridge and McCook. And in 2021, had 22,208 passenger arrivals and departures. This benefit is in addition to the approximately \$6.5 million spent by Amtrak within the state for wages, goods and services. If we do not re-adopt the Midwest Interstate Passenger Rail Compact, we will be sitting on the outside looking in. All of you have sat on boards of various organizations. I am sure you recognize the importance of having a seat at the table, of being a part of the discussion. Decisions are made by those who show up. If we allow ourselves to be removed from the MIPRC and, and stay out of the MIPRC, we will no longer have a seat at the table. Please vote to advance LB44 from your committee. I'm welcome to any-- answer any of your questions.

GEIST: Thank you for your testimony. Are there any questions from the committee? Yes, Senator Bostelman.

BOSTELMAN: Thank you, Chairwoman Geist. Who's sitting on it now? I don't think we have anybody sitting on it now.

MATTHEW ROQUE: Currently, no. Nebraska is not a member of the MIPRC.

BOSTELMAN: So you say-- here, you say we will no longer have a seat, but we don't currently have a seat.

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MATTHEW ROQUE: My apologies. Yes.

BOSTELMAN: And what time of night is it that the Zephyr comes through Nebraska?

MATTHEW ROQUE: So I believe it's the-- the train headed west comes at 12:30.

BOSTELMAN: p.m.

MATTHEW ROQUE: a.m.

BOSTELMAN: a.m. The middle of the night. Right. OK.

MATTHEW ROQUE: And the train headed east goes-- it comes at 2:30.

BOSTELMAN: a.m.

MATTHEW ROQUE: Now I might-- that might be mixed up on those, but it's 12:30 and 2:30 a.m.

BOSTELMAN: OK. Thank you.

GEIST: Any other questions? I don't see any. Thank you for your testimony.

MATTHEW ROQUE: Thank you.

GEIST: Any other proponents? Good evening. Welcome back.

RICHARD SCHMELING: Thank you. It's going to be a long hearing, it looks like or at least the last of them was. My name is Richard Schmeling, S-c-h-m-e-l-i-n-g. I wear many hats. However, in this case, I wear many t-shirts. I am, in fact, a member of a program in Nebraska with the District Court director. But I am here today as president of a group called Citizens for Improved Transit. A major focus of CFIT is to improve transportation and public transportation in general, but we have a lot of emphasis on the StarTran bus system here in Lincoln and we've made some great strides with StarTran, which the Senator Geist will probably find out more about, if all the billboards are correct and she's going to be our next mayor. My dream is to see an integrated public transit system that serves all the members of the state. Now, that doesn't mean I'm going to put a passenger train in Plymouth, Nebraska, Senator Brandt, but at least what I'm going to try to do is I'm going to have more rail passenger service, so that people in the--

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your area can make a short trip and get on the train and go wherever they need to go. This, this whole business-- this bill is more than just talking about passenger trains. We're talking about the future of our state. And I'd like to just, sort of, shoot this one out for you to consider. We're always concerned about the brain drain, about Nebraska college students going elsewhere. They have done surveys of the millennials. The millennials are sort of, you know, we have baby boomers and so on and so forth. The millennials are reaching maturity and, and getting settled in their careers and professions. The millennials, unlike previous generations, are not into private automobiles. As a matter of fact, it used to be that 93 percent of the people got driver's licenses within the year from the time they turned 16. With the millennials, that's around 70 percent. The survey showed that the millennials want to live where there's good public transportation and we don't have it here in Nebraska. We need it. It would help in jobs, getting people to apply for jobs, to go to jobs, if they don't drive. There are just so many buses. And for these public transit projects, there's a ripple effect: for every dollar you spend on the public transit project, you either get four or up to \$10 in economic development into the state. So I strongly urge you to do what this committee has not done before and that is don't just let this go die in committee. Move it to the floor. Let's get going. We're, we're back in the 19th century--

GEIST: Thank you.

RICHARD SCHMELING: --on rail passenger.

GEIST: Thank you.

RICHARD SCHMELING: And we need to move forward.

GEIST: Wait just a minute. You might have a question.

RICHARD SCHMELING: I might have a question.

GEIST: Hang on. You might have a question. Are there any questions on the committee? OK. You can go. Thank you. Are there any other proponents? Good after-- good evening.

ANDREW FOUST: Good evening. My name is Andrew Foust, A-n-d-r-e-w F-o-u-s-t. Good, good afternoon, Chairman Geist or Chairperson Geist and members of the Transportation Committee. Thank you for this opportunity to speak today in support of Senator Dungan's bill LB44. My name's Andrew Foust. I'm the Nebraska legislative director for

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SMART Transportation Division, also known as UTU and SMART-TD. We're a rail union that represents over 1,200 conductors and engineers across Nebraska. SMART-TD has long supported the Midwest Interstate Rail-- Passenger Rail Compact and we support high speed rail. Nebraska should be at the table along with other states that belong to the MIPRC, because we believe that it would be a tremendous resource for our state. It would also-- it would relieve the already congested interstate systems, bringing economic development to Nebraska and allow for affordable, safe rail travel. Further, because the U.S. transportation has been interested in the high speed rail for years. Nebraska should take advantage of all opportunities that may come from the federal government. Thank you for your time and I'd be happy to answer any questions you might have.

GEIST: Thank you for your testimony. Are there any questions? I do not see any. Thank you very much.

ANDREW FOUST: Thank you.

GEIST: Any other proponents? Any other proponents? Are there any opponents to this legislation, LB44? Any opponents? Anyone wishing to testify in the neutral capacity? I do not see any. Senator Dungan, you are welcome to close. And as you're coming to close, we received 11 letters- five proponents, six in opposition and no neutral.

DUNGAN: Six opponents? Really?

GEIST: I'm just the messenger.

DUNGAN: No. Thank you again, Chair Geist and members of the committee, I will keep this short. I know you've had a long day already. This, to me, just seems like common sense. I'm just the latest steward of this idea. I know that there's been a number of folks before me who have proposed getting back into the MIPRC. I want to briefly mention the fiscal note, for those who paid attention to it, because I think it, unfortunately, just misstated a couple of things. It talks about the creation of a commission, then it goes into all the details of what would have to happen for the creation of the commission as a whole. I think by virtue of the wording and maybe a lack of understanding, they misunderstood. The MIPRC already exists. We're just asking to be members of it again. There would be four, four of us from the state who are our representatives to the MIPRC, but it's not as though we have to create the commission from thin air. In addition to that, there is some minuscule fiscal note regarding administrative costs.

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The bill does permit the local MIPRC to have an office if they need that or staff. My understanding from speaking to folks who have worked at the MIPRC previously, is they did not previously have an office or anything like that. So if that minimal fiscal note is what's hanging you up, I would say it doesn't necessarily even have to cost us that much. It would just make sense to get back involved. So again, happy to answer questions and would urge your support of LB44.

GEIST: Thank you for your close. Are there any questions? I do not see any. That will end the testimony for LB44 and we will move to LB234, Senator Walz. OK. And we will wait here just a minute until she arrives.

WALZ: I remembered.

GEIST: Good evening.

WALZ: Good evening. How are you?

GEIST: Good.

WALZ: Sorry.

GEIST: It's OK.

WALZ: All right.

GEIST: We're at your beck and call, so.

WALZ: Sure. Great. I love to hear that.

GEIST: A little exaggeration, but, you know.

WALZ: All right.

GEIST: We're here.

WALZ: Good afternoon, Chair Geist and members of the Transportation and Telecommunications Committee. My name is Lynne Walz, L-y-n-n-e W-a-l-z, and I represent District 15, which is made up of Dodge County and Valley. Today, I'm excited-- very excited to introduce LB234, which requires railroad companies to report blocked crossing incidents in our states. Railroad safety has been front and center as of recently and blocked crossings are no exception. There is story after story, across the country, of blocked crossings causing kids to not make it to school, first responders' response time being slowed and

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individuals dying from trying to get in between train cars. A couple of years ago in my district, a family woke up on Christmas morning to their house on fire. The fire was reported at 7 a.m., but crews didn't get access to the home until about 8:20 because of a blocked crossing. A man in Grand Island attempted to get through a parked train and was killed. I know there are numerous times, numerous times I've been stuck at a block crossing and there are countless more stories like that from Nebraskans. While these stories are all too common, we don't have the data to understand how common the issue is. Blocked crossings and other incidents are reported to train companies by phone calls placed to the phone number on the little blue sign near the crossing. And I don't know if you've ever noticed the little blue sign, but it is a little blue sign. From conversations I've had with train companies and the train unions, these phone calls are vital to know when and where to break, break trains and make sure communities can continue moving forward. I introduced, I introduced LB234 as a comprehensive approach for our state to address blocked crossings. LB234 requires that by November 1 of each year, each railroad company will be required to report to the Public Service Commission and to the Nebraska State Patrol on the call-- phone calls they received. The report is to include how many complaints there have been, the date of the complaint, the location of the incident and the action taken by the railroad company to resolve the complaint. The Public Service Commission will then compile the reports together, with its own record of blocked crossings, into one large report. This report will then be sent to the Transportation and Telecommunications Committee of the Legislature. Included in the report can also be the Commission's recommendations. I would like to note that the Public Service Commission voted in favor of supporting this bill and submitted a public online comment. I also passed out an amendment that would make clear that the report would include crossings that are blocked for 10 minutes or more. In addition, the Commission's report would also be sent on to the Department of Transportation. Additionally, the Public Service Commission requested that the report deadline be moved from December 1 to December 31, to allow more time to compile their report and recommendations. There are a few reasons that I think this bill is an, is an important tool to address rail safety. First of all, this can help us, the Legislature, to see where there are consistently issues and how we can address them. It can help us determine whether or not we should appropriate additional funds for rail grade crossings or viaducts. Second, we can get a holistic view of the issues our constituents are facing, rather than phone calls to our office or being tagged online. Our state needs to be prepared for rail safety

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issues and requiring reporting of blocked crossings is one step we can take to address the public safety concerns. With that, I'd be happy to take any questions.

GEIST: Thank you for your opening. Are there any questions on the committee? Senator Brandt.

BRANDT: Thank you Chairwoman Geist, Real quick, Senator Walz, we do not have an existing law on blocked crossings?

WALZ: We do not what?

BRANDT: Have an existing statute on blocked crossings?

WALZ: I don't believe we do. No.

BRANDT: OK. Thank you.

GEIST: Any other questions from the committee? I do not see any. Do you plan to stick around for closing?

WALZ: Yeah.

GEIST: OK. Any proponents.

PAT PFEIFER: Welcome back.

GEIST: Yes. Good evening.

PAT PFEIFER: My name is Pat Pfeifer, P-a-t P-f-e-i-f-e-r. I'm the chairman for the Nebraska State Legislative Board. I'm here in support of Senator Walz's bill. I wish it had more in it. To answer your question, the Public Service Commission does have a statute that says it's unlawful to block a crossing for more than 10 minutes. I actually called up to the Public Service Commission and just inquired when have we ever issued a fine or penalty about that and, and they couldn't ever tell. In a back of what you've got is real life stories, from one, one woman that lives out around my neighborhood. And it was just a bunch of text messages. Four days. She called that number on the box, got a recording. Four days, that crossing was blocked. Her only access out of her house or for a first responder to get there was to drive down a right of way. And you'll see some of those pictures in there. Those right of ways are often strewn, strewn with railroad ties, broken knuckles, stuff like that. If she would have injured herself, if she would have injured her property, she's technically

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trespassing. This bill is a good start. I wish there was-- if, if it advanced out of here, I hope that somebody's got enough guts to add an amendment to give the citizens that are affected by this a right for recovery. You know, how-- four days. The only way she got her crossing block-- unblocked, well, somehow she found the number for the CEO to the Union Pacific Railroad. Fifteen minutes later, that crossing was open. The problem with crossings is, again, when these trains get bigger and bigger and bigger and longer and longer and longer, they cannot-- the yards in North Platte, I'm sure the yards, in Lincoln here, they're not designed to accept three-- or 3-mile long trains. They don't have the capacity, so we have to split trains. It takes two crews, three crews, sometimes, to even put a train in the yard. And while it takes 2-3 hours to do that, we've got more trains stacking up behind and behind. And it's changing the behavior of the, the citizens of this state. They know these trains are long. I've had more close calls, near misses, near hits, however you want to say it, since these trains started getting longer. Because they know if they don't beat that train, they're going to be stuck there for a while. So I, I encourage you to pass this. I think it's a start and then find some way to enforce keeping these crossings open. Thank you. Any questions?

GEIST: Thank you. Are there any questions on the committee? I don't see any. Thank you for your testimony.

ANDREW FOUST: Good afternoon.

GEIST: Good afternoon.

ANDREW FOUST: My name is Andy-- Andrew Foust, A-n-d-r-e-w F-o-u-s-t. Good afternoon, Chairperson Geist and members of the committee. I'm the Nebraska legislative director for SMART Transportation Division, SMART-TD. We are a railroad union that represents over 1,200 conductors and engineers across Nebraska. And thank you for allowing me to speak in support of LB234. Our members would like to, to thank Senator Walz for introducing this important, necessary public safety bill. On February 5, 2020, the Nebraska, Nebraska Public Service Commission conducted a hearing in Grand Island, Nebraska, concerning Union Pacific and BNSF blocking crossings in Grand Island. One resident testified at this hearing lives in a small development with 250 residents. The development sits on the north side of the only crossing into the development and the residence-- the resident lives 50 yards from this crossing. With mountains of exhibits, she testified about a Ring doorbell video footage, on Christmas Eve, of a BNSF train blocking the crossing for 20-plus hours. The crossing bells were

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ringing and the motor was idling. Other exhibits showed pictures of children coming home from-- coming into the development from an elementary school. Trains would block the crossing so often the childrens would have to cross through the train by passing their bicycles over the couplers of the train and then climbing underneath the cars. This is especially dangerous because the crossing has two main lines, so there can be trains traveling from either direction. After everyone was done testifying at the hearing, Commissioner Ritter called the BNSF representative to answer questions. One of the questions asked was whether BNSF showed any record of this train blocking the crossings for 20-plus hours on Christmas Eve. A representative from BNSF stated, there was no record of this train in question blocking the crossing. However, the residents supplied numerous records of her calling the number on the cross [INAUDIBLE], including who she spoke to and how many times she'd called. With LB234, this will no longer happen. The railroads will have to supply an annual report of all reported blocked crossings. Thank you for your time. And I'll be happy to answer any questions you might have.

GEIST: Thank you for your testimony, Senator DeBoer.

DeBOER: Thank you. So you're saying that because the only way in and out of this, kids have to, to go through the train to get to their homes?

ANDREW FOUST: The elementary school, the track travels east to west and the development is north of those crossings. And then the elementary school is on the other side of the crossing, on the other side of the highway, south of that crossing. So when the, when the train was blocking the crossing, yes, the only way to get through there was to cross through the train. And then the other source of entrance to the development is a three-mile around, over a viaduct.

DeBOER: So now that there's been some attention to it, they said it's been that way, you know, 24 hours on Christmas Eve or whatever. Has it happened since then?

ANDREW FOUST: Oh, yes.

DeBOER: Really?

ANDREW FOUST: Yes.

DeBOER: It keeps happening? Thank you.

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GEIST: Yes, Senator Brandt.

BRANDT: Thank you, Chairwoman Geist. So you represent a union, is that correct?

ANDREW FOUST: Yes, I do. SMART-TD.

BRANDT: And at 12 hours, you guys have to shut the train down. You time out. Is that correct?

ANDREW FOUST: Yes. I can no longer run the trains.

BRANDT: So, so if the train times out and you're on the crossing, you just shut down. Is that right?

ANDREW FOUST: Yes.

BRANDT: OK. Is there a solution-- common sense solution here, where the union and management can work together not to block these crossings?

ANDREW FOUST: Yes.

BRANDT: What would that be?

ANDREW FOUST: Inform the dispatchers on where to stop the train. With the-- the problem is, is the infrastructure of the railroads was not made or designed to support three-mile long trains. So you have numerous crossings that are being blocked by these super long trains. Right.

BRANDT: So is the solution then to break the three-mile long trains?

ANDREW FOUST: That would be one of the solutions.

BRANDT: But I mean--

ANDREW FOUST: The other solution would be to stop the train outside of town.

BRANDT: --but typically, in eastern Nebraska where I live, if, if you run square with the roads, it's every mile, if you're running at an angle, it's, it's much closer than that, because you're blocking a lot of crossings. It just seems to me this could be worked out, outside of a statute, between your two groups, could it not?

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ANDREW FOUST: Yeah, it could. And then you wouldn't be a-- there wouldn't be a reporter. I mean, the, the-- essentially this bill is not-- it's not fining the railroads. All they're doing-- all they're being told to is to supply a report of any crossings that are blocked more than 10 minutes.

BRANDT: All right. Thank you.

ANDREW FOUST: They're already keeping the data, Senator.

BRANDT: All right.

GEIST: Any additional questions? I don't see any. Thank you.

ANDREW FOUST: Thank you.

GEIST: Good evening.

CHRIS BRUNS: Good evening, again. My name is Lincoln-- I'm Lincoln County Commissioner Chris Bruns, C-h-r-i-s B-r-u-n-s. Again, good evening, Madam Chair and other esteemed members of this committee-- need to speak to you again this evening, not only for myself, but on behalf of the entire Lincoln County Board of Commissioners in strong support of LB234. And thank you, Senator Walz, for introducing this bill. As with LB31, my colleagues and I unanimously passed a resolution in support of this important legislation and I provided a copy of that resolution, in addition to my remarks this evening for you. This legislation advances a solution to an issue that so many rural counties have to deal with on a regular basis-- sound transparency and accountability to the appropriate government entities, when it comes to the plethora of at-grade rail crossings being blocked for prolonged periods of time. This is a continual issue that we face, an issue that I hear about from my constituents and first responders on a regular basis. As many of you may know, county commissioners have many responsibilities related to emergency management in their respective counties. And thankfully, we typically have phenomenal professionals who handle the tasks associated with the emergency management on a daily basis. Lincoln County has over 1.6 million acres, with residents living in many geographically dispersed locations. Our roads, all 1,600-plus miles of them, like many rural counties, do not have a lot of alternative routes to get to our citizens. These alternative routes that do exist often require dozens of additional miles to get to that end destination. When I have emergency dispatchers contacting me to make me aware of rural

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crossings being blocked for hours, hours at a time, it is easy to see how this issue quickly becomes a public safety issue, especially when a first responder calls, the time associated with them-- being associated with life or death is, is minutes. As train lengths continue to expand to three miles, longer in many cases, this issue is not going to go away. It, it demands attention to it. And this bill helps with that public safety demand for greater accountability to the Public Service Commission and this legislative committee. Thank you for your time and consideration on this important piece of legislation. I ask that you humbly consider it and advance it to General File. And with that, I'll answer any questions that may be asked.

GEIST: Thank you. Are there any questions? I don't see any. Thank you for your testimony.

CHRIS BRUNS: Thank you.

GEIST: Welcome back.

RICHARD SCHEMLING: Here I am again. Richard Schmeling, S-c-h-m-e-l-i-n-g. I'm not representing any particular group. I'm here as a private citizen and I've experienced what everybody else does, the crossing that's blocked by a standing train. Senator Bostelman, I've had conversations with your staff about this issue and I know this is a concern to you. You've, you've had complaints from people in your district. Unfortunately, legally, it's a crazy quilt as to what you can do about this problem. And I'll leave that to your learned legal counsel to sort this out. Suffice it to say, that many local communities have crossing blocking ordinances and they're enforceable, but they're not uniform. The train lengths. We've talked about that all afternoon concerning various bills. Those train lengths are, are getting longer. This is part of the push of the railroads to maximize the dividends by running 300-car trains instead of 150-car trains. They save the cost of a crew. And I don't see them changing in the future, so that's not a way to, to attack the problem. Now, Senator Brandt, you're familiar with the area down and around Steele City. Union Pacific goes down through Fairbury down to Steele City. And in that area, there are very few crossroads because of the Little Blue River. So we have some of those 300-car trains that are breaking down and it takes them 2-3 hours to fix them, even with the two-man crews. And I have a friend that lives there and she says there's no way for emergency vehicles, fire, ambulance and so on to get across that railroad from-- all the way from Endicott down to south of Steele

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City. And I suspect that situation exists elsewhere in the state. I see this bill as a good first step to try to identify the problem. And then in the subsequent session, hopefully, we'll be able to find a solution. But it's a very real problem and one that needs to be addressed. Thank you.

GEIST: Thank you. Any questions? I don't see any. Thank you for your testimony.

SONNY FANKHAUSER: Name is Sonny Fankhauser, S-o-n-n-y F-a-n-k-h-a-u-s-e-r. Good afternoon, Chairs-- Chairperson Geist and members of the Transportation Committee. And a special thanks to Senator Walz for introducing this bill. Passage of this commonsense bill will help as a building block to understanding the effects blocked crossings have on the public safety. According to the National Safety Council's most current 2021 data, railroad-related deaths totaled 893, highest since 2007. Fatalities at grade crossings increased 21 percent from 2020. Nonfatal injuries totaled 5,781, a 4 percent increase from 2020. These numbers alone do not tell the whole story. How many lives are impacted by the first responders not getting the quickest access to those in need of help because of a blocked crossing? You hear medical personnel talk about the golden hour. Mortality rate significantly increases if definitive care isn't rendered within the first hour after injury. Everyone in this room is aware that trains are getting longer and not shorter. Up until four years ago, a long train, to those in the railroad industry, was 7,500 feet. Today, there are trains running across Nebraska in excess of 20,000 feet. Nebraska has 3,117 rail miles and 3,228 public crossings, with 2,100 of them being private. Essentially, there's an average one rail crossing for every one mile. A 20,000-foot train at any given time, on average, will have 3.78 crossings blocked. Figure, on average, train speed of 20 miles per hour, which is the industry average, mega trains will be blocking the crossing, crossing, on average, 11.5 minutes, while they're moving. To give this some perspective, the longest traffic light in America is in West Milford, New Jersey, at 5 minutes and 33 seconds. A typical traffic signal cycle time is 90-120 seconds, so 1.5-2 minutes. With this information, my hope is this committee will want to further investigate what is happening at these blocked crossings. As with all bills, the goal should be to increase the public safety and LB234 just does that. This bill is a win-win for all parties involved. Thank you for your time.

GEIST: Thank you.

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SONNY FANKHAUSER: Questions?

GEIST: Any questions from the committee? I don't see any. Thank you.

SONNY FANKHAUSER: Thank you.

GEIST: Any other proponents? Welcome back.

AMANDA SNIDE: Thank you. My name is Amanda Snide, S-n-i-d-e. I'm the assistant state legislative director for SMART-TD. I also happen to be here to testify on behalf of the Nebraska State Volunteer Firefighter Association and the Nebraska Fire Chiefs Association. I've been employed as a conductor for the last eight years. When I'm not building trains, I'm a union representative trying to make the railroad safer for myself, my coworkers, and the towns we go through. It's important to me, as someone that lives less than 200 yards from four main lines going in and out of Bailey Yard, North Platte. I also am a 15-year member of the Hershey Volunteer Fire Department in Lincoln County. We handle a large number of calls and have dealings with the railroads on a regular basis for emergencies. When I first got on the fire department, I was shocked that such a small town would have two fire stations. It was explained to me that this was due to the fact that our crossings were blocked so often we couldn't get to emergencies. Therefore, we kept trucks of varying abilities on different sides of the tracks so we could respond to emergencies, without worrying about blocked crossings. We've since gotten a viaduct in Hershey. That project cost over \$13 million. I think asking the railroads to reduce their train lengths could save state's budget and is easier and more cost effective for everyone involved. Members of the Nebraska State Volunteer Fires-- Firefighters Association, like myself, have brought forward concerns, enough so that our paperwork for submitting ambulance records or eNARSIS-- our reports now include a portion that can fill out our arrival and/or care to our patient has been delayed by a train. In order to better track this problem, I've shared the FRA blocked crossing website that was created in 2019 to track this problem, as no one holds the railroads accountable for blocked crossings at this time. I would ask you that those numbers be included in your ideal solution to this problem. I think two people on every train and train links consistent with the sidings, making them fit between regularly-used crossings are all examples of how we can make Nebraskans safe. Last year, due to road construction, there was a bridge out making access to an area more difficult. The only access to this area was a road that had a rail, rail crossing. The 911 dispatcher reached out to me, knowing that I work at the railroad and

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asking if I could figure out when a train was going to move. As when she called the number on the little blue box that Senator Walz talked about, they had no answer three separate times. When asked if they could give them an update about when the train moved eventually, they were told no. No one holds the railroads accountable. And I would ask that you guys ask for them to simply report how often they block these crossings. Thank you for your time today.

GEIST: Thank you for your testimony. Are there any questions? I don't see any. Thank you. Good evening.

JAMES MICHAEL BOWERS: Good evening, Chairwoman Geist and members of the committee. I appreciate your time and service to Nebraska and for ongoing public comment. My name is James Michael Bowers, J-a-m-e-s M-I-c-h-a-e-l B-o-w-e-r-s, and I'm a member of the Lincoln City Council representing District 1, northeast Lincoln, and I'm also a member of the Railroad Transportation Safety District for Lincoln and Lancaster County. I'm not here on behalf of the City Council as a whole or the RTSD, but as an elected representative from a district with a proud railroad history, now providing a testimony in support of LB234, a bill that seeks to address the issue of blocked railroad crossings in the state of Nebraska. As you're already aware, the Legislature has recognized that blocked railroad crossings can have severe consequences, such as interfering with first responders, disrupting the lives of Nebraskans and creating a public safety risk. Local government officials like city councils, county commissions and railroad transportation safety districts, often have been the first point of contact for residents who have experienced a blocked railroad crossing. A yearly report outlining the number of complaints, the dates of complaints, the locations of blocked crossings, the duration and action taken by the railroad company to resolve complaints would be helpful to me, as a policymaker and as an elected representative. One role of any elected official is to be responsive to constituent questions and concerns and to provide accurate information. Neutral, data-driven information will help me communicate with my constituents and address their frustration and fears. It helps identify this as a one-time issue or a consistent problem that needs to be addressed. It also helps me share with those who reach out the work that the railroads have done to address this problem in the past and what the outcome was and it helps me manage expectations while looking for realistic solutions. The passage of this bill would be helpful to me, as a policymaker, in service to folks in northeast Lincoln and on the Railroad Transportation Safety District. And I would urge your

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support. And thank you again for your time and talent to the state of Nebraska.

GEIST: Thank you for your testimony. Just a minute. Let's see if there are any questions. Yes, Senator DeKay.

DeKAY: Real quick. Is the purpose of this bill directed at stopped trains or is it include the-- with the length of the trains that are out there, include moving trains going through one or multiple crossings at the same time?

JAMES MICHAEL BOWERS: So I'll leave that technical information to folks who will provide comment before or after me. But when I look at the amount of data that is available to elected officials, even in responding to constituent concerns that reach out, it would be helpful for me, one, to say the railroad has a process to deal with this or this is what has happened in the past. So it would be helpful to me in informing how I respond to constituents.

DeKAY: Thank you.

GEIST: Any other questions?

JAMES MICHAEL BOWERS: All right. Thank you, Senators.

GEIST: Thank you. Any other proponents?

ADAM HAUSMAN: Hello, again.

GEIST: Hi, there.

ADAM HAUSMAN: Oh. My name is Adam Hausman, A-d-a-m H-a-u-s-m-a-n, and I am the second vice chairman of the Nebraska State Legislative Board and a legislative representative for my local union, BLET 621. I'm here to support the-- LB234. Train now-- train nowadays can be as long as 15,000 feet plus. These trains are referred to as mega trains and are equipped with more tonnage, cars and potentially, more hazardous waste. The problem with these trains rolling through our town in rural areas is if the train needs to stop for some reason, most often, a crossing will be blocked. Because these trains are so long, it takes longer to maneuver them, therefore, potentially blocking crossings for hours. Think if there was an emergency on the other side of that crossing, the first responders may have to travel several miles out of their way to get across. Can you imagine the possibility-- possible outcome in a life or death situation? Railroad infrastructure is not

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built for these mega trains. Often, these trains do not fit into sidings or rail yards cannot accommodate them. Unfortunately, the, the train crews do not have control over where we stop and where we go. That is up to the dispatcher and the railroads. We are told-- when we do stop, we can have 3-4 crossings blocked at one time. Just the other day, for instance, my conductor and I were behind a 15,000-foot coal train and in the middle of the locomotive's-- the middle locomotives ran out of fuel because the previous yard did not accommodate them from-- to get fuel. They lack-- the, the rails-- the railroad yards just lack the capacity to do this. So when it ran out of fuel, several crossings were blocked for over 2 hours. This backed up train traffic on the main line for several hours. It seemed redundant for these Class 1 railroads-- they want to move freight at a faster speed with these longer trains, just to have them stop and unable to fuel and not manageable. It's time these railroads stop taking all your profits and start thinking about the public safety. Thank you for your time.

GEIST: Thank you for your testimony. Are there any questions from the committee? I don't see any. Thank you very much. Any other proponents? Are there any opponents for LB234? Good evening.

KELLI O'BRIEN: Good evening, Chairperson Geist and Transportation Committee members. My name is Kelli O'Brien, K-e-l-l-i O-'-B-r-i-e-n and I'm senior director of Public Affairs for Union Pacific Railroad Company. I've worked for Union Pacific for the past ten years. I'm here today to respectfully express opposition to LB234. Under this bill, both the Public Service Commission and Nebraska DOT would oversee grade crossing assessments in the state. The bill also creates new reporting requirements, requiring railroads to report specified data to the PSC, NDOT and to Nebraska State Patrol. This is efficient [SIC] and confusing. For example, why the PSC has jurisdiction over railroads in some areas; NDOT is the agency with the jurisdiction over the railroad crossings, as provided in Nebraska Statute 74-1311. Nebraska DOT has a comp-- comprehensive program in place for overseeing these crossings. In addition, a mandated reporting requirement provides no added benefit while creating unnecessary administrative steps, conflicting with the Union Pacific's longstanding practice of sharing blocked crossing information with Nebraska DOT. Currently, blocked crossing data is provided for every grade crossing diagnostic, which is an assessment made by a team comprised of Nebraska DOT, railroads, municipality employees who work together to determine which improvements should be considered at a particular rail-- at-grade rail crossing. Nebraska DOT establishes and updates, as needed, a priority list for improving railroad crossings

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in Nebraska. In establishing this priority list, NDOT consults with governmental subdivisions to determine where railroad crossing improvements are needed, considering numerous factors, including average daily vehicle traffic count and average daily train count. That's under Title 14 [SIC], Nebraska Administrative Code [SIC], Chapter 4, Section 00.11 [SIC], the Exposure Factor. Union Pacific remains concerned that the requirement to report blocked crossing occurrences, dates, locations, durations and action taken begin to veer into managing and governing railroad operation, raising legal concerns. If you or the public encounter a blocked crossing, I encourage you to report it to UP's 24-hour Response Management Communication Center at 1-800-848-8715, through our online reporting tool, www.up.com/notifyup. The specific crossing can be identified by referencing the number on the blue placard-- posted sign at the crossing, which I have and I'm not supposed to show you because it-- no props are allowed. Your reporting helps us manage blocked crossings and engage in a dialogue with railroad authorities. In closing, Union Pacific works diligently with NDOT, as well as in the state with community leaders. Yep.

GEIST: Thank you. We have the rest of it and so--

KELLI O'BRIEN: No problem.

GEIST: --we always appreciate when you give us your testimony.

KELLI O'BRIEN: Sure.

GEIST: Are there any questions from the committee? Yes, Senator DeBoer.

KELLI O'BRIEN: Yes, Senator DeBoer.

DeBOER: Thank you, Senator Geist. This-- is this, is this data already collected by the, the railroads? Do you, do you collect this?

KELLI O'BRIEN: Yeah, we do have it. We have it. And we provide it to Nebraska DOT.

DeBOER: We provide it to the NDOT?

KELLI O'BRIEN: Yeah.

DeBOER: So would NDOT be able to share it with the PSC and with us?

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KELLI O'BRIEN: Possibly. Possibly. But it's just something that some of it we don't-- there are some parts of it that, you know, going back in time, we probably couldn't provide to you what-- the action that was taken each time. So.

DeBOER: So that data isn't available?

KELLI O'BRIEN: That, that is very-- I, I don't know if that is even a possibility to provide.

DeBOER: So going forward, could you provide data on when there was a blocked crossing and how long it was blocked and what happened to the [INAUDIBLE]?

KELLI O'BRIEN: The what happened part is the, is the, is the, is the part that-- it's, it's a very-- I mean, we would, we would spend a lot of time. We may have to hire someone to do this, this job.

DeBOER: To say what happened?

KELLI O'BRIEN: Yeah. Um-hum.

DeBOER: But you could say where--

KELLI O'BRIEN: Yeah.

DeBOER: --and for what duration.

KELLI O'BRIEN: Yeah. Correct.

DeBOER: OK. Thank you.

KELLI O'BRIEN: We share that with Nebraska DOT now.

DeBOER: OK.

KELLI O'BRIEN: So.

GEIST: Yes, Senator Brandt.

BRANDT: Thank you, Chairwoman Geist. Thank you, Ms. O'Brien, for your testimony.

KELLI O'BRIEN: Yes.

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BRANDT: It sounds to me in your testimony, with NDOT, it's more about figuring out who needs a viaduct. Would that be correct?

KELLI O'BRIEN: Um-hum. There is, but then there's also--

BRANDT: So it isn't, it isn't really about the 3,000 grade crossings across the state. It's, it's-- so, for example, in my county, most all those small grade--

KELLI O'BRIEN: Yeah.

BRANDT: --crossings are blocked at one time or another.

KELLI O'BRIEN: Yeah, that's correct.

BRANDT: And that's, that's the one, as you heard in previous testimony--

KELLI O'BRIEN: Um-hum.

BRANDT: --the train will sit there for 2 or 3 days. They'll call your 800 number.

KELLI O'BRIEN: Um-hum.

BRANDT: And I don't know if that's UP's 800 or if that's a universal service number. But it, it seems self-defeating to have a number there for, for the public to call--

KELLI O'BRIEN: Um-hum.

BRANDT: --and they're not getting any response.

KELLI O'BRIEN: Right. And we've talked about that, you and I, together, in terms of this. And that information is provided. And I work with those locations, as possible, as brought to my attention. But I get-- each day I get a blocked crossing report list.

BRANDT: Does that get full [INAUDIBLE] government entity?

KELLI O'BRIEN: No. That's, that's ours and I work through those as I can.

BRANDT: So are they blocked because the union times out and you just stop the train?

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KELLI O'BRIEN: I'm, I'm not going to say that because I think it's a cooperative dance with dispatch and with the train crew. And so-- and, and they have to put things down. They have federal rules timing them out. But the territory-- they know their territory. But if the dispatcher-- they have to follow the red and-- red and yellow and green lights, just like I do, so.

BRANDT: Well-- and, and that's fine, but as a Senator, I've seen a circular firing squad here.

KELLI O'BRIEN: Um-hum.

BRANDT: They're blaming you, you're blaming them.

KELLI O'BRIEN: Oh, I'm-- I would--

BRANDT: And the public, the public is a guy--

KELLI O'BRIEN: Yeah.

BRANDT: --you know, that's stuck with a train parked across a--

KELLI O'BRIEN: Right.

BRANDT: --crossing. And God forbid, I had one of those bells--

KELLI O'BRIEN: Yeah.

BRANDT: --dinging for 24 hours, because they probably wouldn't be in Plymouth, Nebraska, I'll tell you that.

KELLI O'BRIEN: Right.

BRANDT: But-- well, what's the solution here? I mean, we don't-- you're telling us we don't need any legislation. What's the solution?

KELLI O'BRIEN: Well, we do some of this already, is-- that's what I'm saying. And I do it with a agency already, so that's, that's what I'm trying to understand. The Nebraska Department of Transportation, we provide that blocked crossing data to them, currently. So I'm just trying to see why we need to provide it. And it's after the fact, too. It's, it's a year's-- I'm willing to, I'm willing to listen. I'm willing to work through the bill and work on it.

BRANDT: All right. Thank you.

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KELLI O'BRIEN: So-- does that, does that help somewhat? Maybe not.

BRANDT: All right.

KELLI O'BRIEN: OK.

GEIST: Senator Bostelman.

BOSTELMAN: Thank you, Chairwoman Geist. We've heard mentioned 3-mile trains quite often--

KELLI O'BRIEN: Yeah.

BOSTELMAN: --tonight and this afternoon. So how often-- how many, how many 3-mile trains do we have in Nebraska?

KELLI O'BRIEN: So on average, our trains-- I got the average and it's, it's 9,100 feet, right now, that we're running. That's the average. There are some trains--

BOSTELMAN: But do you have longer trains?

KELLI O'BRIEN: --we do have longer trains. It's true.

BOSTELMAN: And how, how-- I mean, how common do we have the long-- how common do we have-- does UP have a train that's over a mile long?

KELLI O'BRIEN: It's common, sir.

BOSTELMAN: It's common. OK.

KELLI O'BRIEN: Yes. I don't want to misrepresent. Yes, it is.

BOSTELMAN: I, I, I think the, I think the-- and I appreciate the conversation you had with Senator Brandt. I think what Senator Walz was trying to get at here is trying to get some documentation--

KELLI O'BRIEN: Sure.

BOSTELMAN: --somewhere, to identify--

KELLI O'BRIEN: Yeah.

BOSTELMAN: --because we're not identifying now. Because we've talked before, too.

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KELLI O'BRIEN: Sure.

BOSTELMAN: On Highway 14, the sheriff was calling it in--

KELLI O'BRIEN: Right.

BOSTELMAN: --and getting no response, getting no help. And Highway 14 is the only way to get north and south out of Superior, getting into Kansas.

KELLI O'BRIEN: Um-hum.

BOSTELMAN: So you had a fire, if you had a, a EMS type of response, there is, there is no-- you got to-- clear over-- go through Guiderock, you go back around, you cut down on the, on the county road that goes to the lake and then, cut back across--

KELLI O'BRIEN: Um-hum.

BOSTELMAN: Miles and miles out of the way. So I think what-- my perspective of what Senator Walz was doing, she did-- she does have an amendment that does include DOT, DOT and their [INAUDIBLE]--

KELLI O'BRIEN: Um-hum. Yeah.

BOSTELMAN: -- process. So, I think she's just trying to get to a point of--

KELLI O'BRIEN: Yeah.

BOSTELMAN: --trying to get her, trying to, trying to get her hands around this thing--

KELLI O'BRIEN: Sure.

BOSTELMAN: --and trying to figure out-- because for some reason, there's no tracking process now.

KELLI O'BRIEN: I'd be happy to work with, with Senator Walz on it. So.

BOSTELMAN: OK. Thank you.

GEIST: Thank you. Any additional questions? I don't see any. Thank you.

KELLI O'BRIEN: Thanks.

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GEIST: Any other opponents? Good evening.

JEFF DAVIS: Good evening. Madame Chair, members of the committee, Jeff Davis, J-e-f-f D-a-v-i-s, appearing on behalf of BNSF Railway in opposition to LB234. BNSF respects what Senator is trying to do here. Blocked crossings are a problem for her, they're problems for everyone. Many of you have constituents who had experiences-- some of you've had personal experiences and called me. Everyone at BNSF does understand those feelings. I get those calls often and I take every one of them. In many cases, blocked crossings are an infrastructure issue that requires an infrastructure solution. Sometimes, we can make an operational change to solve the problem or make it better. In the case of Grand Island, when it was, was raised earlier here today, my understanding is that we did make an operational change, in that we moved the trains further out. That-- I did receive one complaint after that, but to the best of my knowledge, I've only gotten one complaint in 2-plus years since, since we've reached, you know, that change, you know, with the Public Service Commission. But, you know, often, you need a side-- a longer siding, a grade separation or something else to improve the situation. That's a discussion between the railroad, the Nebraska Department of Transportation, local officials. You know, my impression, when I talked to the sponsor, was she wanted to identify locations and projects that could be funded, then come up with a funding solution. I support that goal. You know, outside of Lincoln, Lancaster County and Omaha, most rural communities do not have the funds for these grade separation projects or the, the technical expertise to pull down federal grants. Some of the specific issues with this bill. And there needs to be some sort of de minimis requirement. I mean, there's nothing that separates the, the random call, where a train may be moving slowly through the crossing, versus a train that's, that's stopped or blocking the crossing. Another issue, we don't want to end up with everyone making our employees mandatory reporters. We want to make sure-- I mean, we track our call center statistics. We can give you all that, but we don't want to be out there trying to comb the weeds for stuff. Can we provide information on, on the locations of crossings, the calls that we get to our call center? Can we, can we tell you how-- yes, we can do that. Can we tell you how long the train was there? No. Can we tell you how we resolved the, the complaint? I don't know that we're going to be able to give you the, the answers that the, the Senator wants. You know, in conclusion, we want to work with Senator Walz and with you to solve this problem.

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GEIST: Wow. That was good. Thank you. [LAUGHTER]. Senator DeKay has a question.

DeKAY: Thank you. I was looking at part of your testimony here, reading through it, where it says the costs for a project for crossing gates and stuff would be estimated around \$400,000.

JEFF DAVIS: Um-hum.

DeKAY: And, and then, the last line in that paragraph says there's not enough money in the safety fund.

JEFF DAVIS: Um-hum.

DeKAY: Who's, who's in charge of the safety fund? Where's-- what fund are you talking about?

JEFF DAVIS: I believe that's the Nebraska Grade Crossing Safety Fund that's under the jurisdiction of the Nebraska Department of Transportation.

DeKAY: OK. And that's who you feel should be responsible for--

JEFF DAVIS: Yes. Yes. I mean, they have the statutory jurisdiction. They have the engineering expertise. You know, they're the people that we're already working on these issues with, now.

DeKAY: OK. Thank you.

GEIST: Senator DeBoer.

DeBOER: Thank you, Senator Geist. So clearly there's an issue, there's a problem that we want to solve, when we have kids going through trains, which I know you all don't like.

JEFF DAVIS: No. No. Absolutely not.

DeBOER: And first responders not being able to get to people who need them, I'm sure you don't like that either.

JEFF DAVIS: No, I don't, I don't like those phone calls.

DeBOER: So I know last year, in a hearing about a similar topic, one of the concerns that was expressed to me was that there aren't a lot of places to park these large trains. There's just not that many spots that won't block a crossing. Is that-- am I remembering that right?

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JEFF DAVIS: Yes. I mean, there, there are certain locations on our railroad where a longer train would be really problematic if it had to stop.

DeBOER: So the fact that we are blocking these crossings, I mean, what's, what's the solution for that? What's-- I mean, obviously, one solution will be shorter trains. I don't think that's popular with you guys. So what's the solution against all of the-- we can't fund all of these-- every single one of these overpass. I mean, you know, no way we can make overpasses for every single one of these places. So what's the solution? We don't want kids and we don't want first responders. How do we fix this? Putting you on the spot.

JEFF DAVIS: I think, possibly, we have an interim committee, where we study the issue and literally have some, some forthright conversations about, you know, really, how this will all work. I'm just not sure that we have the time compressed here, in the next few days, to, to get all of this worked out, but I'm certainly willing to try. You know, it's, it's complicated. And I, and I think it's, it's, it's not as easy as, as some people would, would portray it to be, even with, even with a 5,000-foot train. You know, I've had-- here-- here's an example that I had, where-- when a developer builds a new subdivision on the other side of your-- of, of our tracks, where there is a-- using a private road as access, which, you know, the private road was never intended for, for public use, never intended for, you know, literally, you know, three or 400 people to have homes on the other side of that tracks. And all of a sudden, now it does. And then, it puts us in a, in a very difficult situation, in, in terms of, you know-- all of a sudden, we become the bad actors to everyone who bought a home in that subdivision when, you know, we had no knowledge that this was going on. And apparently, you know, when it was planning and zoning, it wasn't a consideration that this was actually a private crossing and not a public road in and out for these people.

DeBOER: OK. Well, I look forward to working on this with you all because I know you care about the issue. And I know all of us in this room probably care about this issue, because I don't know if you saw my face when they were talking about kids climbing through trains with, with bikes, that's just-- that's terrifying.

JEFF DAVIS: Yes, totally.

DeBOER: Thank you.

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GEIST: Thank you. Any other questions? I don't see any. Thank you for your testimony. Any other opposition testimony? Is there anyone who'd like to speak in the neutral capacity? I don't see any. With that, I will have Senator Walz come. And while she does, I'll say that we have received five letters. There are four in support, one in opposition. However, reading that opposition letter, it actually sounds like it's in support. I think they misunderstood, but we'll count it as opposition, since that's what the author said, so-- it appears to be in support, however.

WALZ: OK. All right. Well, first of all, I want to thank everybody for coming and listening today. I want to thank the committee for listening. I do want to say that this was-- when I originally met with UP, I didn't hear a-- and I-- we're-- that we're [INAUDIBLE] in opposition, so this is really the first time that I heard that they are in opposition. I kind of felt like they were coming in neutral. And I just want to address-- my staff specifically asked NDOT if they track data. And their response was that they would not receive any reports that did not include a, a motor vehicle or a pedestrian or a bicyclist. So the, the data that they were tracking, according to NDOT, had to include one of those three things. And that came from the NDOT rail expert. So just a brief reminder, this bill is simply asking train companies to report, to the Public Service Commission and the Nebraska State Patrol, blocked crossing incidents. LR234 [SIC - LB234] is meant to have a holistic view at the issue of blocked crossings. Many of our constituents share these issues with us and I know that they share them with you, as well. And I feel that this is really a small piece that the Legislature can do to have a better understanding. You know, actually, this is one of the biggest issues in my district besides the expressway system. It's an issue that Nebraskans obviously care about. It's an issue regarding safety and the, the ability to travel with ease. I would like to see this bill get out of committee, giving us, giving us the opportunity to identify the problems and look for solutions, as well as what investments do we need to make, when it comes to transportation and railroads. I do appreciate the idea Amanda, with Volunteer Firefighters had, regarding let's include first responders in, in the reporting. And anybody that wants to get on board, anybody else that feels that they would like to be included in that reporting, I think it's a great idea. I mean, obviously, first responders should be. I think they're key to that. And then-- so I think that that's something that we should definitely consider. And with that, I don't have any other comments, but I'll take any questions.

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GEIST: Thank you. Are there any questions? Yes, Senator Brandt?

BRANDT: Thank you, Senator Geist. Real quick. Couldn't the PSC set up a public hotline? I mean, that's kind of their job, like an 811 or something like that or just, just--

WALZ: That's something that we could consider.

BRANDT: --I mean, you're, you're-- it seems like we kind of strangle this problem, relying on the industry to tell us what's blocked, when the people that are affected are the ones that would gladly report it to some entity.

WALZ: You know, the problem is-- I mean, for me, the problem is that what's that reporting-- what's it going to look like, you know? I mean, is it going to be another small sign that, really, not a whole lot of people pay attention to, to get the report to the PSC?

BRANDT: Well, I think if they would just answer the phone number that they've got, if that's the case. I mean, the reporting we're hearing is they don't always answer the 800 number.

WALZ: Yeah, that's another reason why I like, you know, maybe, including first responders in the reporting.

BRANDT: All right. Thank you.

GEIST: Anyone else? Any other questions? I don't see any.

WALZ: All right.

GEIST: We'll close the hearing for LB234.

WALZ: Thank you.

GEIST: And we will move on to LB796.

DeKAY: They're clearing the room. Good to see you here on a Monday.

WAYNE: All right.

BRANDT: We'll get there.

WAYNE: Let's not all leave at once.

GEIST: Good evening, Senator Wayne. I'll use your phrase.

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WAYNE: Good evening.

GEIST: Welcome to your Transportation and Telecommunications Committee,

WAYNE: Good evening, Senator. Good evening, Chairwoman Geist and members of the Transportation Committee-- Telecommunication and Transportation Committee. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which is north Omaha and northeast Douglas County. I was trying to figure out a way to make this introduction longer, but I don't really know how to, because this is a very, very, very, very simple bill. If Omaha ever has a streetcar or when it does, the FTA requires that there is a safety oversight by the state. That's all this bill does is add language to make the state have a safety oversight. There's no fiscal notes because the city has already agreed to pay for it. I could spell my name again if you want this to be longer, but other than that, I got nothing. There is an expert behind me from the city who will kind of explain why it's needed, but it's really that simple.

GEIST: I'm going to ask you a quick question, then I'll open it up. So did you say the city already agreed to pay for this oversight committee?

WAYNE: Yeah. There-- there's conversations going on. And in the fiscal note, it says that it-- they've also-- the state's going to engage them for a consulting expense. So they've already started a conversation. The state knows about it.

GEIST: OK.

WAYNE: It's just a simple bill.

GEIST: Just puts it under the--

WAYNE: Yeah. Yeah. It's required by the FTA.

GEIST: OK. Any other questions? I don't see any. Thank you for your brevity. Proponents. Good evening.

DEREK MILLER: Good evening, Chairwoman Geist and other members of the Transportation and Telecommunications Committee. I am Derek Miller, D-e-r-e-k M-i-l-l-e-r. I'm with the city of Omaha testing in-- testifying in support of LB796. I'd like to thank Senator Wayne for his introduction in support of this bill. As Senator Wayne has

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indicated, the bill gives the Nebraska Department of Transportation the authority to establish and oversee a state safety oversight program, also known as an SSO. For some brief background-- we've all been here for a little while, so I'll make it brief. The federal government established, through federal code, the SSO program requirements for states that have, within their jurisdictions, one or more rail fixed guideway public transportation systems, in 1995; updated it in 2005, 2012, and most recently, in 2016. Simply put, states with fixed rail public transit are required to have an SSO program and this bill gives NDOT the avenue to achieve the requirement. Although a rail fixed guideway public transportation system doesn't currently exist in the state of Nebraska, one will and-- in 2026, within the city of Omaha. For the last six months, we have been actively cooperating with the Omaha Streetcar Authority, Metro Transit, Federal Transit Administration and the Nebraska Department of Transportation, following the required steps to establish and certify an SSO program in the state of Nebraska. The passage of LB796 would allow the state to take the first official stop or step, of many, in the process to comply with federal requirements. So as I said, I'll be brief. Thank you for your time this evening. And I'm here to answer any questions you may have.

GEIST: Thank you for your testimony. Are there any questions? I don't see any. Thank you.

DEREK MILLER: Thank you.

GEIST: Any other proponents? Proponents to LB796. Are there any opponents to LB796? Anyone who wishes to testify in the neutral capacity? Seeing none, Senator Wayne, you're welcome to close. Wow. Thank you very much.

WAYNE: I would just-- Senator Wayne back, I would just encourage a, a consent calendar vote and I'll be out of your hair.

GEIST: I do need to read that there are-- there is one letter in agreement.

WAYNE: OK. I got scared there for a second. [LAUGHTER].

GEIST: I had to keep you on edge.

WAYNE: Thank you.

GEIST: You bet. Moving on, we'll go to LB646.

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McDONNELL: Thank you, Chairperson Geist. Good evening--

GEIST: Good evening.

McDONNELL: --committee members. My name is Mike McDonnell, M-i-k-e M-c-D-o-n-n-e-l-l. I represent Legislative District 5, south Omaha. LB646 makes a wireless 911 surcharge equal across, across all Nebraska counties and makes it uniform with our landline 911 surcharge. It also affirms operational support for public serv-- service answering points, through the 911 surcharge. In Nebraska, there are 68 911 public safety answering points, PSA-- PSAPs, to help ensure uniform systems of call receiving and processing across our diverse terrain and constituents. Our financing of the PSAPs has always been funded with a 911 surcharge on landlines. With the majority of households now utilizing wireless services, the previous method for funding public service safety answering points, PSAPs, via 911 surcharge on landlines, has nearly disappeared. The shift in technology has left many PSAPs with the limited financial resources, as land-- landline 911 surcharges have been reduced by 80 percent over the years. We also observe a substantial discrepancy in the number of calls received by many PSAPs, compared to their population size. This can be attributed to attractions such as Lake McConaughy or Calamus reservoirs, where-- wherein, local populations are small, but emergency, emergency call volumes may surge during the visiting tourist months. With no other funding sources available, this puts extra pressure on property taxes and jeopardizes public safety. Funding the-- for 911 will continue to be an issue in, in front of the Legislature until we address the, the pressing issue. In the past, we have entertained various solutions, such as raising Game and Park's fees or eliminating the \$0.50 cap for Douglas County citizens. Upon further research into how Nebraska holds up against its neighboring states, it has become clear that replicating these-- their successes would make much more sense than any other proposed solution. Our neighbors' wireless 911 surcharge, according to the NENA, the 911 association, is South Dakota at \$1.25, Iowa at \$1, Kansas at \$0.90, Missouri at 3 percent of the monthly bill, Colorado at \$0.70 with a maximum of \$3, Wyoming at \$0.25 up to \$0.70. This bill does not increase the rate, but makes the cap uniform across all counties and caps the Public Service Commission to a maximum rate of \$1. Funds from the 911 wireless surcharge are only allowed to be used for 911 services, unlike many of our hidden wireless taxes. An example to this approach is our, is our own telecommunication relay service, which provides access to telecommunication services and equipment for individuals who are hearing, speech impaired or deaf and blind impaired. The Public

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Service Commission has the authority to charge up to \$0.20 per telephone line, but they currently set the surcharge at \$0.03, because this has been sufficient to fully fund the relay service. LB646 makes the wireless 911 surcharge equal across all of Nebraska counties and makes the maximum uniform with our landline 911 surcharge. It also affirms operational support for the PSAPs through the 911-- this 911 surcharge, as the infrastructure costs for the Next, Next Generation 911 start to decline. Overall, this bill is an important step towards providing consistent emergency service throughout the state, while ensuring that taxes are allocated in a responsible manner. We must continue to ensure uniform public safety communication throughout the state. With the passage of LB646, we can do that. There's people behind me that have traveled quite a ways and, and they've been sitting in my office since lunch and I appreciate them sticking around to testify. I'm here to try to answer your questions and I'll be here to close.

GEIST: I'm guessing you're going to have to feed them dinner, too. But are there any questions from the committee? Yes. Senator DeKay.

DeKAY: I missed the first part of your opening. Could you start over? Just kidding.

McDONNELL: It's-- it is getting late. Thank you.

GEIST: Any other questions? And are you sticking around for closing?

McDONNELL: I'm staying around.

GEIST: OK. Any proponents? Proponents? Oh. Could you give it to Caroline?

TIM SCHRAM: Sure.

GEIST: I'm sorry. Our page had to leave. So for the next testifiers, if you would just give your blue sheet to Caroline. Thank you. Good evening, Commissioner.

TIM SCHRAM: Good evening, Chair Geist and members of the Transportation Telecom Committee. I'm Commissioner Tim Schram, T-i-m S-c-h-r-a-m. I represent the Third District on the Nebraska Public Service Commission, here today on behalf of the Commission to express the support for both LB646 and the Nebraska PSAP Community. There are 68 locally-operated 911 centers in Nebraska, also known as PSAPs, public safety answering points. All of our Nebraska PSAPs operate 24

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hours a day, seven days a week and last year, fielded over 900,000 911 calls from Nebraskans seeking emergency assistance. Nebraska's PSAPs are as varied as our state. Last year, our state's largest PSAP answered, on average, more than 1,200 911 calls per day. On the other hand, there are 43 PSAPs that each receive fewer than ten 911 calls per day. As directed by the Legislature and the 911 Service System Act, adopted with LB938 in 2016 and revised with LB993 in 2018, the Public Service Commission is implementing a statewide plan to transition the Nebraska 911 system from a legacy copper wire technology to Next Generation 911 communication technology, that promises increased reliability, redundancy and the ability to locate callers using geographic information systems mapping data. To date, to date, a total of 31 PSAPs in three of our seven PSAP regions have been connected to the state's Next Generation 911 system, with the remainder scheduled to be connected before the end of the year. The metropolitan region, consisting of Douglas, Sarpy and Washington counties, is the next region scheduled to connect. However, no region transitions to the Next Generation 911 system until after a period of extensive testing has proven all connections to be robust, resilient and reliable. After funding costs of the statewide transition to Next Gen 911, the cost of legacy 911 systems and maintaining a reasonable contingency reserve, all the remaining wireless 911 surcharge funds, collected annually by the Commission, are distributed directly to the PSAPs. Therefore, at present, under the wireless surcharge caps under effect, distributes the available amount to 68 Nebraska PSAPs, \$4.85 million. And I, I would just like to say that the monthly wireless 911 surcharge is currently set by the Commission Order at \$0.70 per wireline for residents, all counties except Douglas County, where the rate is limited by statute to \$0.50 per wireless per month. There's a difficulty with that because we have a Metro Region that consists of Douglas, Sarpy and Washington Counties-- are members of the Metropolitan PSAP and so, they-- buying the same equipment, we have one county at \$0.50 and two counties in the same region at \$0.70. So there's a 20 percent difference there. Also, from the carrier's billing perspective, we have addresses along county lines in their billing systems that may overlap into both counties. So with that, I'll conclude.

GEIST: Great. Yes, Senator DeBoer. Go ahead.

DeBOER: What-- why is the-- tell me the history of this. Why is Douglas different?

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TIM SCHRAM: Well, Senator, I, I think if you go back into legislative history, you could probably find the answer to that question. There was just a-- at the time, I believe, a, a cap was put on that there was a difference in Douglas County with the rest of the state.

DeBOER: Well, what kind of difference? Is it more expensive or less expensive to run it in Omaha?

TIM SCHRAM: Well, to give you an honest answer, Senator, I think, I think-- you know, like you said, you have to go back into the legislative history, in, in the floor debate, back in the time. I, I, I've never read that. But I, I do know that it was a senator from a district in Omaha that requested that, that Douglas County be capped at \$0.50.

DeBOER: OK. So as a separate question besides the history, but is it less expensive to do-- are there economies of scale in Omaha or something like that, that would make it less expensive to run, even the Next Gen 911?

TIM SCHRAM: Well, you know, the, the-- I'm talking about the wireless surcharge here, Senator. The, the first thing we have to realize about the, the wireless surcharge is, is that it, it was designed to service a statewide system, even though the, the PSAPs are locally controlled and operated by the local jurisdictions, local control of those PSAPs. But as we see with Next Generation 911, whether you're in an urban area or, or traveling from a rural-- urban area to a rural area, we want the 911 system to work. Or if you're traveling from a rural area or urban area, we want that wireless system, that 911 system, to work. I guess the simplest way to say it is, is that 911 calls do not stop at the county line. And currently with Next Generation 91 [SIC] with the regionalization, there's a lot more backup and redundancy capabilities in the event of a natural disaster or some other catastrophe.

DeBOER: OK. Thank you.

GEIST: Any other questions? I do not-- I have one.

TIM SCHRAM: Yes.

GEIST: The \$0.70, is that a cap?

TIM SCHRAM: Yes.

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GEIST: It is. OK.

TIM SCHRAM: Yes.

GEIST: All right.

TIM SCHRAM: And--

GEIST: And the 50 is, as well.

TIM SCHRAM: --Right. And, and the Commission is required by statute to, to-- we have a 911 services-- we have a wireless advisory board that makes a recommendation to the Commission. And then, of course, the Commission has comments, we take a hear-- we go to hearing and make an annual determination of what that surcharge.

GEIST: So you're not to just raise it to a dollar. You're going to have all the public comments--

TIM SCHRAM: No. I mean, there was a number--

GEIST: --and all of that.

TIM SCHRAM: --there was a number of years when I first came to the Commission, we were under the cap. And so, we use our discretion and, and, and only take what we think we need to run the, the system.

GEIST: Sure. Thank you. I think that's all. Thank you for your testimony. Appreciate it. Any other proponents? Good evening.

JON CANNON: Good evening. Chairwoman Geist, members of the Transportation and Telecommunications Committee. My name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the executive director of the Nebraska Association of County Officials, also known as NACO. I'm here to testify today in support of LB646. First, I want to thank Senator McDonnell for bringing this bill. This is an issue that is a priority for NACO. I've had the opportunity to go out to Region 26, an area which, by the way, is about the size of Connecticut. And they have a limited number of dispatchers. And I can tell you, they have way fewer dispatchers than the state of Connecticut has for their 911 services. PSAPs are a statewide issue. You know, as Commissioner Schram said, it's not something that stops at the county line. The differential between different counties is frankly, unnecessary. And I think the best illustration is actually with Region 26, members of which are, are here in attendance at today's hearing. And I've also submitted

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some online comments. Again, area the size of Connecticut, limited number of dispatchers, home to Calamus Reservoir, where I've gone to play a little bit. I hope some of you have, as well. A lot of visitors go there from Omaha, from Lincoln, from Kearney, from Yankton, you name it. They're coming from all over the place. And they expect the same kind of service that they would get in any other metropolitan area, as well. Those visitors get into scrapes from time to time and they, they expect good service. And so for me, when I'm, when I'm thinking about what sort of tax policy, what do you want to have? And this, this is essentially is what it is, is that that cap becomes a little bit of a tax. My questions are how much do you need? What are you trying to pay for? Who do you want to pay for it and how are you going to tax them? You know, usually, when I'm over in Revenue, the how are you going to tax them, when it comes to counties, it's a property tax. We won't get into that, thank goodness. But generally speaking, for something that is of a statewide concern, it becomes really a statewide-- you know, it shouldn't be something that's levied on a statewide basis. And so therefore, with that logic in mind, there really is no good reason to have a differentiation between what residents of one county pay versus residents of every other county in Nebraska. Because our safety is a statewide issue for all of our residents. With that, I'm happy to take any questions you might have.

GEIST: Thank you. Thank you for your testimony. Any questions from the committee? I do not see any. Thank you.

JON CANNON: Thank you very much.

GEIST: Any other proponents? Proponents. Any opponents of LB646? Any who wish to testify in the neutral capacity? Seeing none, Senator McDonnell, you are welcome to come and as you do, we have 31 letters in favor of LB646. That's a record today.

McDONNELL: Thank you.

GEIST: So you win.

McDONNELL: Thank you. And I know I'm, I'm between you and leaving, so I'll make it short. But the people in the back, they were part of those 31 letters. They submitted their, their testimony online, which I just really appreciate. They've sat here to listen to this, this hearing and, and be part of it. But they're not testimon-- testifying today and some drove 3-plus hours. Again, the fairness of it, the reason I, I, I had mentioned the relay system early on, at the \$0.20.

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The Public Service Commission has kept it at \$0.03, based on the idea that that's where they're capped at. But they do, they do take, of course, into consideration a number of different factors. So it's not that they are automatically going to move this up to a dollar. But I think when we encourage people to travel east, west or south and make sure they appreciate all parts of our state, that wherever they go in this-- in our state, they should be-- have that same, when they call 911, have that same kind of access, regardless of what part of the state they're in. And I think that there's a fairness to this. But again, that's up to the Public Service Commission if they want to increase it in the future.

GEIST: Any questions from the committee? I do not see any. Thank you for your close.

McDONNELL: And I thank you.

GEIST: Thank you. This will close LB646 and our hearings for the evening.